
HOUSE BILL No. 1885

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-10.3; IC 33-19-7-7; IC 36-8.

Synopsis: Local public safety pensions. Provides that a police officer who retires or becomes disabled after December 31, 2002, is entitled to a pension based on the salary of the rank held at the time of retirement or disability. Provides that a surviving spouse of a police officer who dies after December 31, 2002, is entitled to an annuity based on the salary of the rank held at the time of the death of the police officer. Provides that certain surviving children of a police officer who dies after December 21, 2002, are entitled to an annuity based on the salary of the rank held at the time of the death of the police officer. Provides for a five year phase in of the cost of these benefits. Increases the amount that must be appropriated from court fees to a pension trust for the sheriff's department.

Effective: July 1, 2001.

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January 17, 2001, read first time and referred to Committee on Ways and Means.

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First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

HOUSE BILL No. 1885

A BILL FOR AN ACT to amend the Indiana Code concerning pensions.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 5-10.3-11-4.5, AS AMENDED BY P.L.118-2000,
2 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2001]: Sec. 4.5. **This section applies to distributions made**
4 **for surviving spouses of members who are firefighters.** In addition
5 to the requirements of section 4 of this chapter, each year the state
6 board shall distribute from the pension relief fund to each unit of local
7 government, in two (2) equal installments on or before June 30 and on
8 or before October 1, an amount determined under the following
9 STEPS:
10 STEP ONE: For each surviving spouse in the unit who is a
11 surviving spouse of a member of ~~the 1925 fund~~, the 1937 fund ~~or~~
12 ~~the 1953 fund~~ who dies after December 31, 1988, determine the
13 greater of thirty percent (30%) of the monthly pay of a first class
14 ~~patrolman or~~ firefighter or fifty-five percent (55%) of the monthly
15 benefit the deceased member was receiving or was entitled to
16 receive on the date of the member's death. However, if the



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deceased member was not entitled to a benefit because the member had not completed twenty (20) years of service, for the purposes of computing the amount under this STEP, the member's benefit is considered to be fifty percent (50%) of the monthly salary of a ~~first class patrolman~~ or first class firefighter.

STEP TWO: Subtract thirty percent (30%) of the salary of a ~~first class patrolman~~ or first class firefighter.

SECTION 2. IC 5-10.3-11-4.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 4.6. This section applies to distributions made for surviving spouses of members who are police officers who die before January 1, 2003. In addition to the requirements of section 4 of this chapter, each year the state board shall distribute from the pension relief fund to each unit of local government, in two (2) equal installments on or before June 30 and on or before October 1, an amount determined under the following STEPS:**

STEP ONE: For each surviving spouse in the unit who is a surviving spouse of a member of the 1925 fund or the 1953 fund who dies after December 31, 1988, and before January 1, 2003, determine the greater of thirty percent (30%) of the monthly pay of a first class patrolman or fifty-five percent (55%) of the monthly benefit the deceased member was receiving or was entitled to receive on the date of the member's death. However, if the deceased member was not entitled to a benefit because the member had not completed twenty (20) years of service, for the purposes of computing the amount under this STEP, the member's benefit is considered to be fifty percent (50%) of the monthly salary of a first class patrolman.

STEP TWO: Subtract thirty percent (30%) of the salary of a first class patrolman.

SECTION 3. IC 5-10.3-11-4.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 4.7. This section applies to distributions made for surviving spouses of members who are police officers who die after December 31, 2002. In addition to the requirements of section 4 of this chapter, each year the state board shall distribute from the pension relief fund to each unit of local government, in two (2) equal installments on or before June 30 and on or before October 1, an amount determined under the following STEPS:**



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STEP ONE: For each surviving spouse in the unit who is a surviving spouse of a member of the 1925 fund or the 1953 fund who dies after December 31, 2002, determine the greater of thirty percent (30%) of the monthly salary of the rank held by the member at the time of death or fifty-five percent (55%) of the monthly benefit the deceased member was receiving or was entitled to receive on the date of the member's death. However, if the deceased member was not entitled to a benefit because the member had not completed twenty (20) years of service, for purposes of computing the amount under this STEP, the member's benefit is considered to be fifty percent (50%) of the monthly wage currently received by a member holding the rank that the deceased member held at the time of death.

STEP TWO: Subtract thirty percent (30%) of the monthly wage currently received by a member holding the rank that the deceased member held at the time of death.

SECTION 4. IC 33-19-7-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 7. (a) This section applies to a county in which there is established a pension trust under IC 36-8-10-12.

(b) From the county share distributed under section 2 of this chapter and deposited into the county general fund, the county fiscal body shall appropriate ~~twelve~~ **twenty-four** dollars (~~\$12~~) (**\$24**) for each verified claim presented by the sheriff to the fiscal body under subsection (c). Amounts appropriated under this subsection shall be deposited by the county auditor into the pension trust established under IC 36-8-10-12.

(c) For each service of a writ, order, process, notice, tax warrant, or other paper completed by the sheriff, the sheriff shall submit to the county fiscal body a verified claim of service.

SECTION 5. IC 36-8-1-11.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 11.5. "Salary of the rank" means the base salary of the rank held by a member of the police department in the year of death, retirement, disability, or occurrence of disease, plus all longevity increases, if provided by the employer, but does not include remuneration or allowances for fringe benefits, incentive pay, holiday pay, insurance, clothing, automobiles, firearms, education, overtime, or compensatory time off.**

SECTION 6. IC 36-8-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2. (a) The police chief or fire chief may be granted a leave of absence by the authority who appointed him.



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1 This appointing authority may also grant a leave of absence to any
2 other full-time, fully paid police officer or firefighter.

3 (b) A leave of absence under subsection (a) shall be granted for
4 service in the Indiana general assembly and may also be granted only
5 for one (1) of the following reasons:

6 (1) Sickness.

7 (2) Disability.

8 (3) Sabbatical purposes.

9 However, a leave of absence because of disability may not be granted
10 to a member of the 1977 fund under this subsection unless a leave
11 granted under subsection (g) has expired without disability benefits
12 having been paid from the 1977 fund. In the case of such an expiration,
13 a leave for purposes of disability may be granted under this subsection
14 but only until the member's eligibility for disability benefits is finally
15 determined.

16 (c) Before a leave of absence may be granted for sabbatical
17 purposes, the member must submit a written request explaining and
18 justifying the leave to the appointing authority. Sabbatical purposes
19 must be related to the improvement of the member's professional
20 performance and skills, such as education, special training, work
21 related experience, and exchange programs.

22 (d) This subsection applies to leaves of absence granted under
23 subsection (b)(1), (b)(2), or (b)(3). A leave of absence may extend for
24 a period of not more than one (1) year, determined by the appointing
25 authority, and may be renewed upon written request of the member.

26 (e) This subsection applies to leaves of absence granted for service
27 in the Indiana general assembly. If a police officer or firefighter serves
28 in the general assembly, he shall be granted a leave for the time spent
29 in this service, including the time spent for committee or legislative
30 council meetings.

31 (f) This subsection applies to leaves of absence granted under
32 subsection (b)(1), (b)(2), or (b)(3). A member on leave may receive
33 compensation in an amount determined by the appointing authority, up
34 to a maximum amount that equals his salary before the leave began.

35 (g) This subsection applies only to members of the 1977 fund. The
36 local board may grant a leave of absence for purposes of disability to
37 full-time, fully paid police officers or firefighters (including the police
38 chief or fire chief). The leave is subject to the following conditions:

39 (1) The police chief or fire chief must make a written
40 determination that there is no suitable and available work on the
41 appropriate department for which the fund member is or may be
42 capable of becoming qualified.

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(2) The leave must be approved by the local board after a hearing conducted under IC 36-8-8-12.7.

(3) The leave may not begin until the police officer or firefighter has exhausted all paid leave for sickness.

(4) The leave shall continue until disability benefits are paid from the 1977 fund. However, the leave may not continue for more than six (6) months.

(5) During the leave:

(A) the police officer or firefighter is entitled to receive compensation in an amount equal to fifty percent (50%) of the salary of a first class patrolman or first class firefighter on the date the leave begins; **or**

(B) if the leave begins after December 31, 2002, a member of a police department may receive compensation in an amount determined by the appointing authority, up to a maximum amount that equals the salary of the rank of the member before the leave began.

Payments of compensation under this subsection may not be made from the 1925 fund, the 1937 fund, the 1953 fund, or the 1977 fund.

(h) Determinations under subsection (g) are not reviewable by the board of trustees of the public employees' retirement fund.

SECTION 7. IC 36-8-6-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4. (a) The 1925 fund is derived from the following sources:

(1) From money or other property that is given to the local board for the use of the fund. The local board may take by gift, grant, devise, or bequest of any money, chose in action, personal property, or real property, or an interest in it. The local board shall take the property in the name of the local board and may hold, assign, transfer, or sell it.

(2) From money, fees, and awards that are paid or given to the police department of the municipality or to a member of the department because of service or duty performed by the department or a member. This includes fines imposed by the safety board against a member of the department, as well as the proceeds from the sale of lost, stolen, and confiscated property recovered or taken into possession by members of the police department in the performance of their duties and sold at a public sale in accordance with law.

(3) From an assessment made during the period of his employment or for thirty-two (32) years, whichever is shorter, on the salary of each member whom the local board has accepted and

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designated as a beneficiary of the 1925 fund:

(A) before January 1, 2003, an amount equal to six percent (6%) of the salary of a first class patrolman; and

(B) after December 31, 2002, an amount equal to six percent (6%) of the salary of the rank of the member, subject to the adjustment in subsection (b).

However, the employer may pay all or a part of the assessment for the member.

(b) The increase in the assessment in subsection (a)(3)(B) attributable to the difference between the salary of a first class patrolman and the salary of the rank of the member shall be phased in by adding the following amounts to assessments made after December 31, 2002:

(1) To assessments made after December 31, 2002, and before January 1, 2004, twenty percent (20%) of the increase.

(2) To assessments made after December 31, 2003, and before January 1, 2005, forty percent (40%) of the increase.

(3) To assessments made after December 31, 2004, and before January 1, 2006, sixty percent (60%) of the increase.

(4) To assessments made after December 31, 2005, and before January 1, 2007, eighty percent (80%) of the increase.

(5) To assessments made after December 31, 2006, one hundred percent (100%) of the increase.

(c) The secretary of the local board shall prepare a roll of each of the assessments and place opposite the name of every member of the police department the amount of the assessment against him. The treasurer of the local board shall retain out of the salary paid to the member each month the amount of the assessment, other than any amount paid on behalf of the member, and credit it to the 1925 fund. Except to the extent the assessment is paid on behalf of the member, every person becoming a member of the police department is liable for the payment of the assessments and is conclusively considered to agree to pay it and have it deducted from his salary as required in this section.

SECTION 8. IC 36-8-6-8, AS AMENDED BY P.L.118-2000, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 8. (a) For a member who became disabled before July 1, 2000, the 1925 fund shall be used to pay a pension in a sum determined by the local board, but not exceeding:

(1) for a disability or disease occurring before July 1, 1982, fifty percent (50%); and

(2) for a disability or disease occurring after June 30, 1982, and



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1 **before January 1, 2003**, fifty-five percent (55%);
 2 of the salary of a first class patrolman, to a member of the police
 3 department who has suffered or contracted a mental or physical disease
 4 or disability that renders him unable to perform the essential functions
 5 of any duty in the police department, considering reasonable
 6 accommodation to the extent required by the Americans with
 7 Disabilities Act. If a member who becomes eligible for a disability
 8 pension has more than twenty (20) years of service, he is entitled to
 9 receive a disability pension equal to the pension he would have
 10 received if he had retired on the date of the disability.

11 (b) Except as otherwise provided in this subsection, for a member
 12 who becomes disabled after June 30, 2000, **and before January 1,**
 13 **2003**, the 1925 fund shall be used to pay a pension in a sum determined
 14 by the local board, but not exceeding fifty-five percent (55%) of the
 15 salary of a first class patrolman, to a member of the police department
 16 who has suffered or contracted a mental or physical disease or
 17 disability:

18 (1) that is:

19 (A) the direct result of:

20 (i) a personal injury that occurs while the fund member is on
 21 duty;

22 (ii) a personal injury that occurs while the fund member is
 23 off duty and is responding to an offense or a reported
 24 offense, in the case of a police officer; or

25 (iii) an occupational disease (as defined in IC 22-3-7-10),
 26 including a duty related disease that is also included within
 27 clause (B); or

28 (B) a duty related disease (for purposes of this section, a "duty
 29 related disease" means a disease arising out of the fund
 30 member's employment; a disease is considered to arise out of
 31 the fund member's employment if it is apparent to the rational
 32 mind, upon consideration of all of the circumstances, that:

33 (i) there is a connection between the conditions under which
 34 the fund member's duties are performed and the disease;

35 (ii) the disease can be seen to have followed as a natural
 36 incident of the fund member's duties as a result of the
 37 exposure occasioned by the nature of the fund member's
 38 duties; and

39 (iii) the disease can be traced to the fund member's
 40 employment as the proximate cause); and

41 (2) that renders the member unable to perform the essential
 42 functions of any duty in the police department, considering

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reasonable accommodation to the extent required by the Americans with Disabilities Act.

If a member who becomes eligible for a disability pension has more than twenty (20) years of service, the member is entitled to receive a disability pension equal to the pension the member would have received if the member had retired on the date of the disability.

(c) Except as otherwise provided in this subsection, for a member who becomes disabled after June 30, 2000, **and before January 1, 2003**, the 1925 fund shall be used to pay a pension in a sum determined by the local board, but not exceeding fifty-five percent (55%) of the salary of a first class patrolman, to a member of the police department who has suffered or contracted a mental or physical disease or disability:

(1) that is not described in subsection (b)(1); and

(2) that renders the member unable to perform the essential functions of any duty in the police department, considering reasonable accommodation to the extent required by the Americans with Disabilities Act.

If a member who becomes eligible for a disability pension has more than twenty (20) years of service, the member is entitled to receive a disability pension equal to the pension the member would have received if the member had retired on the date of the disability.

(d) **Subject to the adjustment in section 8.3 of this chapter, the 1925 fund shall be used to pay a pension in a sum determined by the local board, but not exceeding fifty-five percent (55%) of the salary of the rank of a member of the police department who has suffered or contracted a mental or physical disease or disability occurring after December 31, 2002, that:**

(1) renders the member unable to perform the essential functions of any duty in the police department, considering reasonable accommodation to the extent required by the federal Americans with Disabilities Act;

(2) is:

(A) the direct result of:

(i) a personal injury that occurs while the fund member is on duty;

(ii) a personal injury that occurs while the fund member is off duty and is responding to an offense or a reported offense, in the case of a police officer; or

(iii) an occupational disease (as defined in IC 22-3-7-10), including a duty related disease that is also included within clause (B);

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that renders the member unable to perform the essential functions of any duty in the police department, considering reasonable accommodation to the extent required by the Americans with Disabilities Act.; or

(B) a duty related disease (for purposes of this section, a "duty related disease" means a disease arising out of the fund member's employment; a disease is considered to arise out of the fund member's employment if it is apparent to the rational mind, upon consideration of all of the circumstances, that:

(i) there is a connection between the conditions under which the fund member's duties are performed and the disease;

(ii) the disease can be seen to have followed as a natural incident of the fund member's duties as a result of the exposure occasioned by the nature of the fund member's duties; and

(iii) the disease can be traced to the fund member's employment as the proximate cause);

that renders the member unable to perform the essential functions of any duty in the police department, considering reasonable accommodation to the extent required by the Americans with Disabilities Act; or

(3) is not described in subdivision (2) and renders the member unable to perform the essential functions of any duty in the police department, considering reasonable accommodation to the extent required by the Americans with Disabilities Act.

If a member who becomes eligible for a disability pension has twenty (20) or more years of service, the member is entitled to receive a disability pension equal to the pension the member would have received if the member had retired on the date of the disability. If the salary of the rank of a current member of the police department is increased or decreased, the pension payable shall be proportionately increased or decreased.

(e) The member must have retired from active service after a physical examination by the police surgeon or another surgeon appointed by the local board. The disability must be determined solely by the local board after the examination and a hearing conducted under IC 36-8-8-12.7. A member shall be retained on active duty with full pay until he is retired by the local board because of the disability.

(f) After a member has been retired upon pension, the local board may, at any time, require the retired member to again be

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1 examined by the police surgeon or another surgeon appointed by the
 2 local board. After the examination the local board shall conduct a
 3 hearing under IC 36-8-8-12.7 to determine whether the disability still
 4 exists and whether the retired member should remain on the pension
 5 roll. The retired member shall be retained on the pension roll until
 6 reinstated in the service of the police department, except in case of
 7 resignation. If after the examination and hearing the retired member is
 8 found to have recovered from his disability and to be again fit for active
 9 duty, then the member shall be put on active duty with full pay and
 10 from that time is no longer entitled to payments from the 1925 fund. If
 11 the member fails or refuses to return to active duty, he waives all rights
 12 to further benefits from the 1925 fund.

13 ~~(f)~~ (g) If the salary of a first class patrolman is increased or
 14 decreased, the pension payable **under subsection (a), (b), or (c)** shall
 15 be proportionately increased or decreased. However, the monthly
 16 pension payable to a member or survivor may not be reduced below:

17 (1) the amount of the first full monthly pension received by that
 18 person; or

19 (2) fifty-five percent (55%) of the salary of a first class patrolman;
 20 whichever is greater.

21 ~~(g)~~ (h) Time spent receiving disability benefits is considered active
 22 service for the purpose of determining retirement benefits until the
 23 member has a total of twenty (20) years of service.

24 ~~(h)~~ (i) A fund member who is receiving disability benefits under this
 25 chapter shall be transferred from disability to regular retirement status
 26 when the member becomes fifty-five (55) years of age.

27 SECTION 9. IC 36-8-6-8.3 IS ADDED TO THE INDIANA CODE
 28 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 29 1, 2001]: **Sec. 8.3. Any increase in benefits in this chapter**
 30 **attributable to the difference between the salary of a first class**
 31 **patrolman and the salary of the rank of the member shall be**
 32 **phased in by adding the following amounts to benefits paid after**
 33 **December 31, 2002:**

34 (1) To benefits paid after December 31, 2002, and before
 35 January 1, 2004, twenty percent (20%) of the increase.

36 (2) To benefits paid after December 31, 2003, and before
 37 January 1, 2005, forty percent (40%) of the increase.

38 (3) To benefits paid after December 31, 2004, and before
 39 January 1, 2006, sixty percent (60%) of the increase.

40 (4) To benefits paid after December 31, 2005, and before
 41 January 1, 2007, eighty percent (80%) of the increase.

42 (5) To benefits paid after December 31, 2006, one hundred



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percent (100%) of the increase.

SECTION 10. IC 36-8-6-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 9. (a) Benefits paid under this section are subject to section 1.5 of this chapter.

(b) The 1925 fund shall be used to provide a member of the police department who retires from active duty after twenty (20) or more years of active duty an annual pension equal to fifty percent (50%) of the salary of a first class patrolman in the police department, plus:

(1) for a member who retires before January 1, 1986, two percent (2%) of the first class patrolman's salary for each year of service; or

(2) for a member who retires after December 31, 1985, **and before January 1, 2003**, one percent (1%) of the first class patrolman's salary for each six (6) months of service;

of the retired member over twenty (20) years. However, the pension may not exceed in any year an amount greater than seventy-four percent (74%) of the salary of a first class patrolman. The pensions shall be computed on an annual basis but shall be paid in not less than twelve (12) equal monthly installments. If the salary of a first class patrolman is increased or decreased, the pension payable shall be proportionately increased or decreased.

(c) **Subject to the adjustment in section 8.3 of this chapter, the 1925 fund shall be used to provide a member of the police department who retires after December 31, 2002, from active duty after twenty (20) or more years of service an annual pension equal to fifty percent (50%) of the salary of the rank of the member at the date of retirement. The pension shall be computed on an annual basis but shall be paid in not less than twelve (12) equal monthly installments. If the salary of the rank of a current member of the police department is increased or decreased, the pension payable shall be proportionately increased or decreased.**

(d) If a member voluntarily retires after twenty (20) or more years of service, the member is entitled to retirement and the pension, without reference to his physical condition at the time of application. However, he then relinquishes all rights to other benefits or pensions for temporary disability. After retirement the member is not required to render further services on the police department, is no longer subject to the rules of the department, and may not be deprived of other benefits under this chapter that may accrue to him or his dependents.

~~(d)~~ (e) To be retired based upon length of service, only the time served by the member on the regularly constituted police department may be computed. Time served by a member as a special police officer,

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a merchant police officer, or a private police officer may not be considered in computing length of service.

SECTION 11. IC 36-8-6-9.6, AS ADDED BY P.L.118-2000, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 9.6. (a) This section applies to an active or retired member who dies other than in the line of duty (as defined in section 10.1 of this chapter).

(b) A payment shall be made to the surviving spouse of a deceased member in an amount fixed by ordinance, but at least an amount equal to the following:

(1) To the surviving spouse of a member who died before January 1, 1989, an amount equal to thirty percent (30%) of the monthly pay of a first class patrolman per month during the surviving spouse's life if the spouse did not remarry before September 1, 1983. If the spouse remarried before September 1, 1983, and benefits ceased on the date of remarriage, the benefits for the surviving spouse shall be reinstated on July 1, 1997, and continue during the life of the surviving spouse.

(2) Except as otherwise provided in this subdivision, to the surviving spouse of a member who dies after December 31, 1988, **and before January 1, 2003**, an amount per month, during the spouse's life, equal to the greater of:

(A) thirty percent (30%) of the monthly pay of a first class patrolman; or

(B) fifty-five percent (55%) of the monthly benefit the deceased member was receiving or was entitled to receive on the date of the member's death.

However, if the deceased member was not entitled to a benefit because the member had not completed twenty (20) years of service, for purposes of computing the amount under clause (B), the member's benefit shall be considered to be fifty percent (50%) of the monthly salary of a first class patrolman. The amount provided in this subdivision is subject to adjustment as provided in subsection (e).

(3) Except as otherwise provided in this subsection, to the surviving spouse of a member who dies after December 31, 2002, an amount per month, during the spouse's life, equal to fifty-five percent (55%) of the monthly benefit the deceased member was receiving or was entitled to receive on the date of the member's death. However, if the deceased member was not entitled to a benefit because the member had not completed twenty (20) years of service, for purposes of

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1 **computing the amount, the member's benefit shall be**
 2 **considered to be fifty percent (50%) of the monthly salary of**
 3 **the member at the time of death. The amount provided in this**
 4 **subdivision is subject to adjustments as provided in subsection**
 5 **(f) and in section 8.3 of this chapter.**

6 (c) Except as otherwise provided in this subsection, a payment shall
 7 also be made to each child of a deceased member less than eighteen
 8 (18) years of age, in an amount fixed by ordinance, but at least an
 9 amount equal to twenty percent (20%) of the monthly pay of a first
 10 class patrolman **if the member dies before January 1, 2003, and**
 11 **subject to the adjustment in section 8.3 of this chapter, twenty**
 12 **percent (20%) of the salary of the rank that the deceased member**
 13 **held at the time of death if the member dies after December 31,**
 14 **2002, per month:**

- 15 (1) until the child becomes eighteen (18) years of age;
- 16 (2) until the child becomes twenty-three (23) years of age if the
- 17 child is enrolled in and regularly attending a secondary school or
- 18 is a full-time student at an accredited college or university; or
- 19 (3) during the entire period of the child's physical or mental
- 20 disability;

21 whichever period is longer. However, the total of benefits under this
 22 subsection added to the benefits under subsection (b) may not exceed
 23 the maximum benefits computed under section 9 of this chapter for
 24 pension payments to a member who retires from active service after
 25 twenty (20) years or more of active service. This maximum benefit is
 26 equal to fifty percent (50%) of the salary of a first class patrolman in
 27 the police department plus, for a member who retired before January
 28 1, 1986, two percent (2%) of the first class patrolman's salary for each
 29 year of service of the retired member over twenty (20) years or, for a
 30 member who retires after December 31, 1985, **and before January 1,**
 31 **2003, plus one percent (1%) of the first class patrolman's salary for**
 32 **each six (6) months of service of the retired member over twenty (20)**
 33 **years. However, the maximum benefit may not exceed in any year an**
 34 **amount greater than seventy-four percent (74%) of the salary of a first**
 35 **class patrolman for a member who retires before January 1, 2003.**
 36 **For a member who retires after December 31, 2002, the maximum**
 37 **annual benefit is equal to fifty percent (50%) of the salary of the**
 38 **rank of the member at the date of retirement subject to the**
 39 **adjustment in section 8.3 of this chapter.**

40 (d) Except as otherwise provided in this subsection, if a deceased
 41 member leaves no surviving spouse and no child who qualifies for
 42 benefits under subsection (c) but does leave a dependent parent or

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1 parents, an amount equal to twenty percent (20%) of the monthly pay
 2 of a first class patrolman per month from the time of the member's
 3 death **if the member dies before January 1, 2003, and subject to the**
 4 **adjustment in section 8.3 of this chapter, twenty percent (20%) of**
 5 **the salary of the rank that the deceased member held at the time of**
 6 **death if the member dies after December 31, 2002**, shall be paid to
 7 the dependent parent or parents during their dependency. When both
 8 parents survive, the total amount is still twenty percent (20%), to be
 9 paid to them jointly. In all cases of payment to a dependent relative of
 10 a deceased member, the board is the final judge of the question of
 11 necessity and dependency and of the amount to be paid. The board may
 12 also reduce or terminate temporarily or permanently a payment to a
 13 dependent relative of a deceased member when it determines that the
 14 condition of the fund or other circumstances make this action
 15 necessary.

16 (e) If the salary of a first class patrolman **as provided under**
 17 **subsection (b)(1) and (b)(2)** is increased or decreased, the pension
 18 payable under this section shall be proportionately increased or
 19 decreased. However, the monthly pension payable to a member or
 20 survivor may not be reduced below the amount of the first full monthly
 21 pension received by that person.

22 (f) **If the salary of a current member of the police department**
 23 **holding the rank that the deceased member held at the time of**
 24 **death is increased or decreased, the pension payable under**
 25 **subsection (b)(3) shall be proportionately increased or decreased.**
 26 **However, the monthly pension payable to a member or survivor**
 27 **may not be reduced below the amount of the first full monthly**
 28 **pension received by that person.**

29 SECTION 12. IC 36-8-6-10.1, AS AMENDED BY P.L.118-2000,
 30 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 31 JULY 1, 2001]: Sec. 10.1. (a) This section applies to a member who
 32 dies in the line of duty after August 31, 1982.

33 (b) **If a member dies in the line of duty after August 31, 1982,**
 34 **and before January 1, 2003**, the surviving spouse is entitled to a
 35 monthly benefit, during the spouse's lifetime, equal to the benefit to
 36 which the member would have been entitled on the date of the
 37 member's death, but no less than fifty percent (50%) of the monthly
 38 wage received by a first class patrolman. If the surviving spouse
 39 remarried before September 1, 1983, and benefits ceased on the date
 40 of remarriage, the benefits for the surviving spouse shall be reinstated
 41 on July 1, 1997, and continue during the life of the surviving spouse.

42 (c) **If a member dies in the line of duty after December 31, 2002,**



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the surviving spouse is entitled to an additional monthly benefit, during the spouse's lifetime, subject to the adjustment in section 8.3 of this chapter, equal to the difference between:

(1) the benefit to which the member would have been entitled on the date of the member's death, but not less than fifty percent (50%) of the monthly wage currently received by a member holding the rank that the deceased member held at the time of death; and

(2) the amount received by the spouse under section 9.6(b) of this chapter.

(d) A payment shall also be made to each child of a deceased member less than eighteen (18) years of age, in an amount fixed by ordinance, but at least an amount equal to twenty percent (20%) of the monthly pay of a first class patrolman **if the member dies before January 1, 2003, and, subject to the adjustment in section 8.3 of this chapter, twenty percent (20%) of the salary of the rank that the deceased member held at the time of death if the member dies after December 31, 2002**, per month to each child:

(1) until the child becomes eighteen (18) years of age;

(2) until the child becomes twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university; or

(3) during the entire period of the child's physical or mental disability;

whichever period is longer.

~~(d)~~ (e) The surviving children of the deceased member who are eligible to receive a benefit under subsection ~~(e)~~ (d) may receive an additional benefit in an amount fixed by ordinance, but the total additional benefit under this subsection to all the member's children may not exceed a total of thirty percent (30%) of the monthly wage received by a first class patrolman **if a member dies before January 1, 2003, and subject to the adjustment in section 8.3 of this chapter, thirty percent (30%) of the salary of the rank that the deceased member held at the time of death if the member dies after December 31, 2002**. However, this limitation does not apply to the children of a member who are physically or mentally disabled.

~~(e)~~ (f) If a deceased member leaves no surviving spouse and no child who qualifies for benefits under subsection (c) but does leave a dependent parent or parents, an amount equal to twenty percent (20%) of the monthly pay of a first class patrolman per month from the time of the member's death **if a member dies before January 1, 2003, and subject to the adjustment in section 8.3 of this chapter, twenty**



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1 **percent (20%) of the salary of the rank that the deceased member**
 2 **held at the time of death if the member dies after December 31,**
 3 **2002,** shall be paid to the dependent parent or parents during their
 4 dependency. When both parents survive, the total amount is still twenty
 5 percent (20%), to be paid to them jointly. In all cases of payment to a
 6 dependent relative of a deceased member, the board is the final judge
 7 of the question of necessity and dependency and of the amount to be
 8 paid. The board may also reduce or terminate temporarily or
 9 permanently a payment to a dependent relative of a deceased member
 10 when it determines that the condition of the fund or other
 11 circumstances make this action necessary.

12 ~~(f)~~ **(g)** If the salary of a first class patrolman is increased or
 13 decreased, the pension payable under ~~this section~~ **subsection (b) or**
 14 **subsections (d) through (f)** shall be proportionately increased or
 15 decreased. However, the monthly pension payable to a member or
 16 survivor may not be reduced below the amount of the first full monthly
 17 pension received by that person.

18 **(h) If the salary of a current member of the police department**
 19 **holding the rank that the deceased member held at the time of**
 20 **death is increased or decreased, the pension payable under**
 21 **subsection (c) or subsections (d) through (f) shall be**
 22 **proportionately increased or decreased. However, the monthly**
 23 **pension payable to a member or survivor may not be reduced**
 24 **below the amount of the first full monthly pension received by that**
 25 **person.**

26 ~~(g)~~ **(i)** For purposes of this section, "dies in the line of duty" means
 27 death that occurs as a direct result of personal injury or illness resulting
 28 from any action that the member in the member's capacity as a police
 29 officer:

30 (1) is obligated or authorized by rule, regulation, condition of
 31 employment or service, or law to perform; or

32 (2) performs in the course of controlling or reducing crime or
 33 enforcing the criminal law.

34 **SECTION 13. IC 36-8-7.5-8 IS AMENDED TO READ AS**
 35 **FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 8. (a) The 1953 fund**
 36 **is derived from the following sources:**

37 (1) From money or other property that is given to the local board
 38 for the use of the fund. The local board may take by gift, grant,
 39 devise, or bequest any money, chose in action, personal property,
 40 real property, or use the same for the purposes of the 1953 fund
 41 or for such purposes specified by the grantor.

42 (2) From money, fees, and awards of every nature that are given



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to the police department of the municipality or to a member of the department because of service or duty performed by the department or a member. This includes fines imposed by the safety board against a member of the department, all money from gambling cases and from gambling devices as well as the proceeds from the sale of lost, stolen, and confiscated property recovered or taken into possession by members of the police department in the performance of their duties and confiscated by court order, and sold at a public sale in accordance with law.

(3) From an assessment made during the period of his employment or for thirty-two (32) years, whichever is shorter, on the salary of each member whom the local board has accepted and designated as a beneficiary of the 1953 fund, an amount equal to:

(A) before January 1, 2003, six percent (6%) of the salary of a first class patrolman; and

(B) after December 31, 2002, subject to the adjustment in subsection (b), an amount equal to six percent (6%) of the salary of the rank of the member.

However, the employer may pay all or a part of the assessment for the member.

(4) From the income from investments of the 1953 fund.

(5) From the proceeds of a tax levied by the police special service district upon taxable property in the district, which the treasurer shall collect and credit to the 1953 fund, to be used exclusively by the 1953 fund.

(b) The increase in the assessment in subsection (a)(3)(B) attributable to the difference between the salary of a first class patrolman and the salary of the rank of the member shall be phased in by adding the following amounts to assessments made after December 31, 2002:

(1) To assessments made after December 31, 2002, and before January 1, 2004, twenty percent (20%) of the increase.

(2) To assessments made after December 31, 2003, and before January 1, 2005, forty percent (40%) of the increase.

(3) To assessments made after December 31, 2004, and before January 1, 2006, sixty percent (60%) of the increase.

(4) To assessments made after December 31, 2005, and before January 1, 2007, eighty percent (80%) of the increase.

(5) To assessments made after December 31, 2006, one hundred percent (100%) of the increase.

SECTION 14. IC 36-8-7.5-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 12. (a) Benefits paid



under this section are subject to section 1.5 of this chapter.

(b) The 1953 fund shall be used to provide a member of the police department who retires from active duty after twenty (20) or more years of active duty an annual pension equal to fifty percent (50%) of the salary of a first class patrolman in the police department, plus:

(1) for a member who retires before January 1, 1986, two percent (2%) of the first class patrolman's salary for each year of service;

or

(2) for a member who retires after December 31, 1985, **and before January 1, 2003**, one percent (1%) of the first class patrolman's salary for each six (6) months of service;

of the retired member over twenty (20) years. The pension may not exceed in any year an amount greater than seventy-four percent (74%) of the salary of a first class patrolman. The pensions shall be computed on an annual basis but shall be paid in twelve (12) equal monthly installments. If the salary of a first class patrolman is increased or decreased, the pension payable shall be proportionately increased or decreased.

(c) Subject to the adjustment in section 12.6 of this chapter, the 1953 fund shall be used to provide a member of the police department who retires after December 31, 2002, from active duty after twenty (20) or more years of service an annual pension equal to fifty percent (50%) of the salary of the rank of the member at the date of retirement. The pension shall be computed on an annual basis but shall be paid in not less than twelve (12) equal monthly installments. If the salary of the rank of a current member of the police department is increased or decreased, the pension payable shall be proportionately increased or decreased.

(d) If a member retires upon his voluntary application after twenty (20) years or more of active service, he then relinquishes all rights to other benefits or pensions for disability during the time of his retirement.

~~(d)~~ (e) After retirement the member is not required to render further services on the police department and is no longer subject to the rules of the police department, unless a national emergency has been declared by the local board, on application by the executive, the safety board, and the police chief of the city. Upon declaration of such an emergency, the retired member, if physically able, shall return to active duty under the rank he attained at the time of his retirement, and if he refuses to return to active duty upon being declared physically fit, he forfeits his right to receive his pension until the time he returns to active duty and again is retired or discharged from service.



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(e) (f) No pension, annuity, or benefit provided by this chapter is payable by the local board except upon written application by the member of the police department, or the surviving spouse or other dependent, upon the forms and with the information required by the local board.

SECTION 15. IC 36-8-7.5-12.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 12.6. Any increase in benefits in this chapter attributable to the difference between the salary of a first class patrolman and the salary of the rank of the member shall be phased in by adding the following amounts to benefits paid after December 31, 2002:**

(1) To benefits paid after December 31, 2002, and before January 1, 2004, twenty percent (20%) of the increase.

(2) To benefits paid after December 31, 2003, and before January 1, 2005, forty percent (40%) of the increase.

(3) To benefits paid after December 31, 2004, and before January 1, 2006, sixty percent (60%) of the increase.

(4) To benefits paid after December 31, 2005, and before January 1, 2007, eighty percent (80%) of the increase.

(5) To benefits paid after December 31, 2006, one hundred percent (100%) of the increase.

SECTION 16. IC 36-8-7.5-13, AS AMENDED BY P.L.118-2000, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 13. (a) For a member who becomes disabled before July 1, 2000, the 1953 fund shall be used to pay a pension in an annual sum equal to:

(1) fifty percent (50%) for a disease or disability occurring before July 1, 1991; and

(2) fifty-five percent (55%) for a disease or disability occurring after June 30, 1991;

of the salary of a first class patrolman in the police department, computed and payable as prescribed by section 12(b) of this chapter, to an active member of the police department who has been in active service for more than one (1) year and who has suffered or contracted a mental or physical disease or disability that render the member permanently unfit for active duty in the police department, or to an active member of the police department who has been in active service for less than one (1) year who has suffered or received personal injury from violent external causes while in the actual discharge of his duties as a police officer. The pensions provided for in this subsection shall be paid only so long as the member of the police department remains

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1 unfit for active duty in the police department.

2 (b) For a member who becomes disabled after June 30, 2000, **and**
 3 **before January 1, 2003**, the 1953 fund shall be used to pay a pension
 4 in an annual sum equal to fifty-five percent (55%) of the salary of a
 5 first class patrolman in the police department, computed on an annual
 6 basis and payable in twelve (12) equal monthly installments, to an
 7 active member of the police department who:

8 (1) has suffered or incurred a disability that renders the member
 9 permanently unfit for active duty in the police department and
 10 that is:

11 (A) the direct result of:

12 (i) a personal injury that occurs while the fund member is on
 13 duty;

14 (ii) a personal injury that occurs while the fund member is
 15 off duty and is responding to an offense or a reported
 16 offense; or

17 (iii) an occupational disease (as defined in IC 22-3-7-10),
 18 including a duty related disease that is also included within
 19 clause (B); or

20 (B) a duty related disease (for purposes of this section, a "duty
 21 related disease" means a disease arising out of the fund
 22 member's employment; a disease is considered to arise out of
 23 the fund member's employment if it is apparent to the rational
 24 mind, upon consideration of all of the circumstances, that:

25 (i) there is a connection between the conditions under which
 26 the fund member's duties are performed and the disease;

27 (ii) the disease can be seen to have followed as a natural
 28 incident of the fund member's duties as a result of the
 29 exposure occasioned by the nature of the fund member's
 30 duties; and

31 (iii) the disease can be traced to the fund member's
 32 employment as the proximate cause); and

33 (2) is unable to perform the essential functions of the job,
 34 considering reasonable accommodation to the extent required by
 35 the Americans with Disabilities Act.

36 The pensions provided for in this subsection shall be paid only so long
 37 as the member of the police department remains unfit for active duty
 38 in the police department. If the salary of a first class patrolman is
 39 increased or decreased, the pension payable shall be proportionately
 40 increased or decreased. However, the monthly pension payable to a
 41 member or survivor may not be reduced below the amount of the first
 42 full monthly pension received by that person.

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(c) For a member who becomes disabled after June 30, 2000, **and before January 1, 2003**, the 1953 fund shall be used to pay a pension in an annual sum equal to fifty-five percent (55%) of the salary of a first class patrolman in the police department, computed on an annual basis and payable in twelve (12) equal monthly installments, to an active member of the police department who has been in active service for at least one (1) year and:

(1) has suffered or incurred a disability that:

(A) renders the member permanently unfit for active duty in the police department; and

(B) is not described in subsection (b)(2); and

(2) is unable to perform the essential functions of the job, considering reasonable accommodation to the extent required by the Americans with Disabilities Act.

The pension provided in this subsection shall be paid only so long as the member of the police department remains unfit for active duty in the police department. If the salary of a first class patrolman is increased or decreased, the pension payable shall be proportionately increased or decreased. However, the monthly pension payable to a member or survivor may not be reduced below the amount of the first full monthly pension received by that person.

(d) For a member who became disabled before July 1, 2000 **and before January 1, 2003**, the 1953 fund shall be used to pay temporary benefits in an annual sum equal to thirty percent (30%) of the salary of a first class patrolman in the police department, computed and payable as prescribed by section 12(a) of this chapter, to an active member of the police department who has been in active service for more than one (1) year and who has suffered any physical or mental disability that renders the member temporarily or permanently unable to perform his duties as a member of the police department, or to an active member of the police department who has been in active service for less than one (1) year and who has suffered or received personal injury from violent external causes while in the actual discharge of his duties as a police officer, until the time the member is physically and mentally able to return to active service on the police department.

(e) For a member who becomes disabled after June 30, 2000, **and before January 1, 2003**, the 1953 fund shall be used to pay a pension in an annual sum equal to thirty percent (30%) of the salary of a first class patrolman in the police department, computed on an annual basis and payable in twelve (12) equal monthly installments, to an active member of the police department who:

(1) suffers or incurs a disability that renders the member

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temporarily unfit for active duty in the police department and that is:

(A) the direct result of:

(i) a personal injury that occurs while the fund member is on duty;

(ii) a personal injury that occurs while the fund member is off duty and is responding to an offense or a reported offense, in the case of a police officer; or

(iii) an occupational disease (as defined in IC 22-3-7-10), including a duty related disease that is also included within clause (B); or

(B) a duty related disease (for purposes of this section, a "duty related disease" means a disease arising out of the fund member's employment; a disease is considered to arise out of the fund member's employment if it is apparent to the rational mind, upon consideration of all of the circumstances, that:

(i) there is a connection between the conditions under which the fund member's duties are performed and the disease;

(ii) the disease can be seen to have followed as a natural incident of the fund member's duties as a result of the exposure occasioned by the nature of the fund member's duties; and

(iii) the disease can be traced to the fund member's employment as the proximate cause); and

(2) is unable to perform the essential functions of the job, considering reasonable accommodation to the extent required by the Americans with Disabilities Act.

The pension provided in this subsection shall be paid only so long as the member of the police department remains unfit for active duty in the police department. If the salary of a first class patrolman is increased or decreased, the pension payable shall be proportionately increased or decreased. However, the monthly pension payable to a member or survivor may not be reduced below the amount of the first full monthly pension received by that person.

(f) For a member who becomes disabled after June 30, 2000, **and before January 1, 2003**, the 1953 fund shall be used to pay temporary benefits in an annual sum equal to thirty percent (30%) of the salary of a first class patrolman in the police department, computed on an annual basis and payable in twelve (12) equal monthly installments, to an active member of the police department:

(1) who has been in active service for at least one (1) year;

(2) suffers or incurs a disability that:

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(A) renders the member temporarily unfit for active duty in the police department; and

(B) is not described in subsection (b)(2); and

(3) is unable to perform the essential functions of the job, considering reasonable accommodation to the extent required by the Americans with Disabilities Act.

The pension provided for in this subsection shall be paid only so long as the member of the police department remains unfit for active duty in the police department. If the salary of a first class patrolman is increased or decreased, the pension payable shall be proportionately increased or decreased. However, the monthly pension payable to a member or survivor may not be reduced below the amount of the first full monthly pension received by that person.

(g) For a member becomes disabled after December 31, 2002, the 1953 fund shall be used to pay a pension in an annual sum equal to fifty-five percent (55%) of the salary of the rank of a member in the police department, subject to the adjustment in section 12.6 of this chapter, computed on an annual basis and payable in twelve (12) equal monthly installments, to an active member of the police department who:

(1) has suffered or incurred a disability that renders the member permanently unfit for active duty in the police department and that is:

(A) the direct result of:

(i) a personal injury that occurs while the fund member is on duty;

(ii) a personal injury that occurs while the fund member is off duty and is responding to an offense or a reported offense; or

(iii) an occupational disease (as defined in IC 22-3-7-10), including a duty related disease that is also included within clause (B); or

(B) a duty related disease (for purposes of this section, a "duty related disease" means a disease arising out of the fund member's employment; a disease is considered to arise out of the fund member's employment if it is apparent to the rational mind, upon consideration of all of the circumstances, that:

(i) there is a connection between the conditions under which the fund member's duties are performed and the disease;

(ii) the disease can be seen to have followed as a natural

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incident of the fund member's duties as a result of the exposure occasioned by the nature of the fund member's duties; and

(iii) the disease can be traced to the fund member's employment as the proximate cause); and

(2) is unable to perform the essential functions of the job, considering reasonable accommodation to the extent required by the Americans with Disabilities Act.

The pensions provided for in this subsection shall be paid only so long as the member of the police department remains unfit for active duty in the police department. If the salary of the rank of a current member of the police department is increased or decreased, the pension payable shall be proportionately increased or decreased. However, the monthly pension payable to a member or survivor may not be reduced below the amount of the first full monthly pension received by that person.

(h) For a member who becomes disabled after December 21, 2003, the 1953 fund shall be used to pay a pension in an annual sum equal to fifty-five percent (55%) of the salary of the rank of a member in the police department, subject to the adjustment in section 12.6 of this chapter, computed on an annual basis and payable in twelve (12) equal monthly installments, to an active member of the police department who has been in active service for at least one (1) year and:

(1) has suffered or incurred a disability that:

(A) renders the member permanently unfit for active duty in the police department; and

(B) is not described in subsection (g)(1); and

(2) is unable to perform the essential functions of the job, considering reasonable accommodation to the extent required by the Americans with Disabilities Act.

The pension provided in this subsection shall be paid only so long as the member of the police department remains unfit for active duty in the police department. If the salary of the rank of a member of the police department is increased or decreased, the pension payable shall be proportionately increased or decreased. However, the monthly pension payable to a member or survivor may not be reduced below the amount of the first full monthly pension received by that person.

(i) For a member who becomes disabled after December 31, 2002, the 1953 fund shall be used to pay temporary benefits in an annual sum equal to thirty percent (30%) of the salary of the rank

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of the member in the police department, subject to the adjustment in section 12.6 of this chapter, computed and payable as prescribed by section 12(a) of this chapter, to an active member of the police department who has been in active service for more than one (1) year and who has suffered any physical or mental disability that renders the member temporarily or permanently unable to perform his duties as a member of the police department, or to an active member of the police department who has been in active service for less than one (1) year and who has suffered or received personal injury from violent external causes while in the actual discharge of his duties as a police officer, until the time the member is physically and mentally able to return to active service on the police department.

(j) For a member who becomes disabled after December 31, 2002, the 1953 fund shall be used to pay a pension in an annual sum equal to thirty percent (30%) of the salary of the rank of a member in the police department, subject to the adjustment in section 12.6 of this chapter, computed on an annual basis and payable in twelve (12) equal monthly installments, to an active member of the police department who:

(1) suffers or incurs a disability that renders the member temporarily unfit for active duty in the police department and that is:

(A) the direct result of:

(i) a personal injury that occurs while the fund member is on duty;

(ii) a personal injury that occurs while the fund member is off duty and is responding to an offense or a reported offense, in the case of a police officer; or

(iii) an occupational disease (as defined in IC 22-3-7-10), including a duty related disease that is also included within clause (B); or

(B) a duty related disease (for purposes of this section, a "duty related disease" means a disease arising out of the fund member's employment; a disease is considered to arise out of the fund member's employment if it is apparent to the rational mind, upon consideration of all of the circumstances, that:

(i) there is a connection between the conditions under which the fund member's duties are performed and the disease;

(ii) the disease can be seen to have followed as a natural



incident of the fund member's duties as a result of the exposure occasioned by the nature of the fund member's duties; and

(iii) the disease can be traced to the fund member's employment as the proximate cause); and

(2) is unable to perform the essential functions of the job, considering reasonable accommodation to the extent required by the Americans with Disabilities Act.

The pension provided in this subsection shall be paid only so long as the member of the police department remains unfit for active duty in the police department. If the salary of the rank of a member of a police department is increased or decreased, the pension payable shall be proportionately increased or decreased. However, the monthly pension payable to a member or survivor may not be reduced below the amount of the first full monthly pension received by that person.

(k) For a member who becomes disabled after December 31, 2002, the 1953 fund shall be used to pay temporary benefits in an annual sum equal to thirty percent (30%) of the salary of the rank of a member in the police department, subject to the adjustment in section 12.6 of this chapter, computed on an annual basis and payable in twelve (12) equal monthly installments, to an active member of the police department:

(1) who has been in active service for at least one (1) year;

(2) suffers or incurs a disability that:

(A) renders the member temporarily unfit for active duty in the police department; and

(B) is not described in subsection (b)(2); and

(3) is unable to perform the essential functions of the job, considering reasonable accommodation to the extent required by the Americans with Disabilities Act.

The pension provided for in this subsection shall be paid only so long as the member of the police department remains unfit for active duty in the police department. If the salary of the rank of a member in the police department is increased or decreased, the pension payable shall be proportionately increased or decreased. However, the monthly pension payable to a member or survivor may not be reduced below the amount of the first full monthly pension received by that person.

~~(g)~~ (l) If an application is made by an active member of the police department because of physical or mental disability for temporary benefits as provided in subsection (d), (e), ~~or~~ (f), (i), (j), or (k), the

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benefit is not payable until the local board determines after a hearing conducted under IC 36-8-8-12.7 that the member is unfit for active duty on the police department, considering reasonable accommodation to the extent required by the Americans with Disabilities Act. Before the hearing, a physician to be appointed by the local board shall examine the member and certify in writing whether in his opinion the member is unfit, physically or mentally, for active duty in the police department. After the pension or benefit has been granted by the local board, the payment commences with the original date of the injury or illness causing the disability.

~~(h)~~ **(m)** A member who has been granted a disability benefit under this section and who fails or refuses to submit to a physical examination at any time by the local board physician has no right in the future to receive the disability benefit, and any benefit that has been granted shall be immediately canceled by the local board.

~~(i)~~ **(n)** The local board may, from time to time, require a member of the police department who is receiving at any time disability benefits or pensions as provided in this section to be examined by the physician appointed by the local board. After the examination, the local board shall conduct a hearing under IC 36-8-8-12.7 to determine whether the disability still exists and whether the member should continue to receive the pension or benefit. If after the examination and hearing the member is found to have recovered from his disability and is fit for active duty on the police department, then upon written notice to the member by the local board, the member shall be reinstated in active service, the safety board shall be informed of the action of the local board, and from that time the member is no longer entitled to payments from the 1953 fund. If the member fails or refuses to return to active duty after ordered by the local board, he ceases to be a member of the 1953 fund and waives all rights to any further pensions or benefits provided by the 1953 fund.

~~(j)~~ **(o)** Notwithstanding any other provision of this chapter, no disability benefit may be paid for any disability based upon or caused by any mental or physical condition that a member had at the time he entered or reentered his active service in the police department.

~~(k)~~ **(p)** If a member who is receiving disability benefits under subsection (a), (b), or (c) for a disease or disability occurring after June 30, 1991, **and before January 1, 2003**, is transferred from disability to regular retirement status, the member's monthly pension may not be reduced below fifty-five percent (55%) of the salary of a first class patrolman at the time of payment of the pension.

(q) If a member who is receiving disability benefits under

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subsection (g) or (h) for a disease or disability occurring after December 31, 2002, is transferred from disability to regular retirement status, the member's monthly pension may not be reduced below fifty-five percent (55%) of the salary of the rank of the member at the time of payment of the pension.

(r) To the extent required by the Americans with Disabilities Act, the transcripts, reports, records, and other material compiled to determine the existence of a disability shall be:

- (1) kept in separate medical files for each member; and
- (2) treated as confidential medical records.

(s) A fund member who is receiving disability benefits under this chapter shall be transferred from disability to regular retirement status when the member becomes fifty-five (55) years of age.

SECTION 17. IC 36-8-7.5-13.6, AS ADDED BY P.L.118-2000, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 13.6. (a) This section applies to an active or retired member who dies other than in the line of duty (as defined in section 14.1 of this chapter).

(b) The 1953 fund shall be used to pay an annuity, computed under subsection (g) (h) and payable in monthly installments, to the surviving spouse of a member of the fund who dies from any cause after having served for one (1) year or more. The annuity continues during the life of the surviving spouse unless the spouse remarried before September 1, 1983. If the spouse remarried before September 1, 1983, benefits ceased on the date of remarriage. If a member of the fund died, but not in the line of duty, and the member's surviving spouse remarried before September 1, 1983, the benefits of the surviving spouse shall be reinstated on July 1, 1997, and continue during the life of the surviving spouse.

(c) The 1953 fund shall also be used to pay:

- (1) an annuity equal to twenty percent (20%) of the salary of a first class patrolman on the police department, computed as provided in section 12(b) of this chapter and payable in monthly installments, to each dependent child of a member of the fund who dies before January 1, 2003; or
- (2) an annuity equal to twenty percent (20%) of the salary of the rank, computed as provided in section 12(c) of this chapter, subject to the adjustment in section 12.6 of this chapter, and payable in monthly installments, to each dependent child of a member of the fund who dies after December 31, 2002;

from any cause after having served for one (1) year or more as an active

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member of the police department. The pension to each child continues
 (1) until the child becomes eighteen (18) years of age,
 (2) until the child becomes twenty-three (23) years of age if the
 child is enrolled in and regularly attending a secondary school or
 is a full-time student at an accredited college or university, or
 (3) during the entire period of the child's physical or mental
 disability,

whichever period is longer. However, the pension to the child ceases
 if the child marries or is legally adopted by any person.

(d) If a deceased member leaves no surviving spouse and no child
 who qualifies for a benefit under subsection (c) but does leave a
 dependent parent or parents, the 1953 fund is used to pay an annuity
 not greater than a sum equal to:

(1) twenty percent (20%) of the salary of a first class patrolman
 on the police department, computed and payable as provided in
 section 12(b) of this chapter, payable monthly to the dependent
 parent or parents of a member of the police department who dies
before January 1, 2003; or

(2) **twenty percent (20%) of the salary of the rank, computed
 as provided in section 12(c) of this chapter, subject to the
 adjustment in section 12.6 of this chapter, and payable
 monthly to the dependent parent or parents of a member of
 the fund who dies after December 31, 2002;**

from any cause after having served for one (1) year or more as an active
 member of the police department. The annuity continues for the
 remainder of the life or lives of the parent or parents as long as either
 or both fail to have sufficient other income for their proper care,
 maintenance, and support.

(e) In all cases of payment to a dependent relative of a deceased
 member, the local board is the final judge of the question of necessity
 and dependency and of the amount within the stated limits to be paid.
 The local board may also reduce or terminate temporarily or
 permanently a payment to a dependent relative of a deceased member
 when it determines that the condition of the 1953 fund or other
 circumstances make this action necessary.

(f) If the salary of a first class patrolman **as provided under
 subsection (h)(1) and (h)(2)** is increased or decreased, the pension
 payable under this section shall be proportionately increased or
 decreased. However, the monthly pension payable to a member or
 survivor may not be reduced below the amount of the first full monthly
 pension received by that person.

(g) **If the salary of a current member of the police department**



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1 holding the rank that the deceased member held at the time of
 2 death as provided under subsection (h)(3) is increased or
 3 decreased, the pension payable under this section shall be
 4 proportionally increased or decreased. However, the monthly
 5 pension payable to a member or survivor may not be reduced
 6 below the amount of the first full monthly pension received by that
 7 person.

8 (h) Except as otherwise provided in this subsection, the annuity
 9 payable under subsection (b) equals one (1) of the following:

10 (1) For the surviving spouse of a member who dies before January
 11 1, 1989, thirty percent (30%) of the salary of a first class
 12 patrolman.

13 (2) For the surviving spouse of a member who dies after
 14 December 31, 1988, **and before January 1, 2003**, an amount per
 15 month during the spouse's life equal to the greater of:

16 (A) thirty percent (30%) of the monthly pay of a first class
 17 patrolman; or

18 (B) fifty-five percent (55%) of the monthly benefit the
 19 deceased member was receiving or was entitled to receive on
 20 the date of the member's death.

21 However, if the deceased member was not entitled to a benefit because
 22 the member had not completed twenty (20) years of service, for the
 23 purposes of computing the amount under subdivision (2)(B) the
 24 member's benefit is considered to be fifty percent (50%) of the monthly
 25 salary of a first class patrolman. The amount provided in this
 26 subdivision is subject to adjustment as provided in subsection (f).

27 **(3) For the surviving spouse of a member who dies after**
 28 **December 31, 2002, an amount per month during the spouse's**
 29 **life, subject to the adjustment in section 12.6 of this chapter,**
 30 **equal to the greater of:**

31 **(A) thirty percent (30%) of the monthly salary of the rank**
 32 **held by the member at the time of death; or**

33 **(b) fifty-five percent (55%) of the monthly benefit the**
 34 **deceased member was receiving or was entitled to receive**
 35 **on the date of the member's death.**

36 **However, if the deceased member was not entitled to a benefit**
 37 **because the member had not completed twenty (20) years of**
 38 **service, for purposes of computing the amount, the member's**
 39 **benefit shall be considered to be fifty percent (50%) of the monthly**
 40 **salary of the member at the time of death. The amount provided in**
 41 **this subdivision is subject to adjustments as provided in subsection**
 42 **(g) and in section 12.6 of this chapter.**



SECTION 18. IC 36-8-7.5-14.1, AS AMENDED BY P.L. 118-2000, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 14.1. (a) This section applies to an active member who dies in the line of duty after August 31, 1982.

(b) If a member dies in the line of duty after August 31, 1982, **and before January 1, 2003**, the surviving spouse is entitled to a monthly benefit, during the spouse's lifetime, equal to the benefit to which the member would have been entitled on the date of the member's death, but not less than fifty percent (50%) of the monthly wage received by a first class patrolman. If the spouse remarried before September 1, 1983, benefits ceased on the date of remarriage. However, if a member of the police department dies in the line of duty after August 31, 1982, and the member's surviving spouse remarried before September 1, 1983, the benefits for the surviving spouse shall be reinstated on July 1, 1995, and continue during the life of the surviving spouse.

(c) **If a member dies in the line of duty after December 31, 2002, the surviving spouse is entitled to an additional monthly benefit, during the spouse's lifetime, subject to the adjustment in section 12.6 of this chapter, equal to the difference between:**

(1) **the benefit to which the member would have been entitled on the date of the member's death, but not less than fifty percent (50%) of the monthly wage currently received by a member holding the rank that the deceased member held at the time of death; and**

(2) **the amount received by the spouse under section 13.6(b) of this chapter.**

(d) The 1953 fund shall also be used to pay an annuity equal to twenty percent (20%) of the salary of a first class patrolman on the police department **if the member dies before January 1, 2003, and subject to the adjustment in section 12.6 of this chapter, twenty percent (20%) of the salary of the rank that the deceased member held at the time of death if the member dies after December 31, 2002**, computed as provided in section 12(b) of this chapter and payable in monthly installments, to each dependent child of a member of the fund who dies from any cause while in the actual discharge of duties as a police officer. The pension to each child continues:

(1) until the child becomes eighteen (18) years of age;

(2) until the child becomes twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university; or

(3) during the entire period of the child's physical or mental disability;



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1 whichever period is longer. However, the pension to the child ceases
2 if the child marries or is legally adopted by any person.

3 ~~(d)~~ (e) The surviving children of the deceased member who are
4 eligible to receive a benefit under subsection (c) may receive an
5 additional benefit in an amount fixed by ordinance, but the total benefit
6 to all the member's children under this subsection may not exceed a
7 total of thirty percent (30%) of the monthly wage received by a first
8 class patrolman **if a member dies before January 1, 2003, and**
9 **subject to the adjustment in section 12.6 of this chapter, thirty**
10 **percent (30%) of the salary of the rank that the deceased member**
11 **held at the time of death if the member dies after December 31,**
12 **2002.** However, this limitation does not apply to the children of a
13 member who are physically or mentally disabled.

14 ~~(e)~~ (f) If a deceased member leaves no surviving spouse and no
15 child who qualifies for a benefit under subsection (c) but does leave a
16 dependent parent or parents, the 1953 fund shall be used to pay an
17 annuity not greater than a sum equal to:

18 (1) twenty percent (20%) of the salary of a first class patrolman
19 on the police department, computed and payable as provided in
20 section 12(b) of this chapter, payable monthly to the dependent
21 parent or parents of a member of the police department who dies
22 **before January 1, 2003; or**

23 (2) **twenty percent (20%) of the salary of the rank, computed**
24 **as provided in section 12(c) of this chapter, subject to the**
25 **adjustment in section 12.6 of this chapter, and payable**
26 **monthly to the dependent parent or parents of a member of**
27 **the fund who dies after December 31, 2002;**

28 from any cause while in the actual discharge of duties as a police
29 officer. The annuity continues for the remainder of the life or lives of
30 the parent or parents as long as either or both fail to have sufficient
31 other income for their proper care, maintenance, and support.

32 ~~(f)~~ (g) In all cases of payment to a dependent relative of a deceased
33 member, the local board is the final judge of the question of necessity
34 and dependency and of the amount within the stated limits to be paid.
35 The local board may also reduce or terminate temporarily or
36 permanently a payment to a dependent relative of a deceased member
37 when it determines that the condition of the 1953 fund or other
38 circumstances make this action necessary.

39 ~~(g)~~ (h) If the salary of a first class patrolman is increased or
40 decreased, the pension payable under ~~this section~~ **subsection (b) or**
41 **subsections (d) through (f)** shall be proportionately increased or
42 decreased. However, the monthly pension payable to a member or

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1 survivor may not be reduced below the amount of the first full monthly
2 pension received by that person.

3 **(i) If the salary of a current member of the police department**
4 **holding the rank that the deceased member held at the time of**
5 **death is increased or decreased, the pension payable under**
6 **subsection (c) or subsections (d) through (f) shall be proportionally**
7 **increased or decreased. However, the monthly pension payable to**
8 **a member or survivor may not be reduced below the amount of the**
9 **first full monthly pension received by that person.**

10 ~~(h)~~ **(j)** For purposes of this section, "dies in the line of duty" means
11 death that occurs as a direct result of personal injury or illness resulting
12 from any action that the member, in the member's capacity as a police
13 officer:

14 (1) is obligated or authorized by rule, regulation, condition of
15 employment or service, or law to perform; or

16 (2) performs in the course of controlling or reducing crime or
17 enforcing the criminal law.

18 SECTION 19. IC 36-8-8-8 IS AMENDED TO READ AS
19 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 8. (a) **This section**
20 **applies to a fund member who is a firefighter.** Each fund member
21 shall contribute during the period of his employment or for thirty-two
22 (32) years, whichever is shorter, an amount equal to six percent (6%)
23 of the salary of a first class ~~patrolman~~ or firefighter. However, the
24 employer may pay all or a part of the contribution for the member. The
25 amount of the contribution, other than contributions paid on behalf of
26 a member, shall be deducted each pay period from each fund member's
27 salary by the disbursing officer of the employer. The employer shall
28 send to the PERF board each year on March 31, June 30, September
29 30, and December 31, for the calendar quarters ending on those dates,
30 a certified list of fund members and a warrant issued by the employer
31 for the total amount deducted for fund members' contributions.

32 (b) If a fund member ends his employment other than by death or
33 disability before he completes twenty (20) years of active service, the
34 PERF board shall return to him in a lump sum his contributions plus
35 interest as determined by the PERF board. If the fund member returns
36 to service, he is entitled to credit for the years of service for which his
37 contributions were refunded if he repays the amount refunded to him
38 in either a lump sum or a series of payments determined by the PERF
39 board.

40 SECTION 20. IC 36-8-8-8.3 IS ADDED TO THE INDIANA CODE
41 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
42 1, 2001]: **Sec. 8.3 (a) This section applies to a fund member who is**

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1 a police officer. Each fund member shall contribute during the
 2 period of his employment or for thirty-two (32) years, whichever
 3 is shorter:

- 4 (1) before January 1, 2003, an amount equal to six percent
- 5 (6%) of the salary of a first class patrolman; and
- 6 (2) after December 31, 2002, an amount equal to six percent
- 7 (6%) of the salary of the rank of the member, subject to the
- 8 adjustment in subsection (b).

9 However, the employer may pay all or a part of the contribution
 10 for the member. The amount of the contribution, other than
 11 contributions paid on behalf of a member, shall be deducted each
 12 pay period from each fund member's salary by the disbursing
 13 officer of the employer. The employer shall send to the PERF
 14 board each year on March 31, June 30, September 30, and
 15 December 31, for the calendar quarters ending on those dates, a
 16 certified list of fund members and a warrant issued by the
 17 employer for the total amount deducted for fund members'
 18 contributions.

19 (b) The increase in the assessment in subsection (a)(2)
 20 attributable to the difference between the salary of a first class
 21 patrolman and the salary of the rank of the member shall be
 22 phased in by adding the following amounts to assessments made
 23 after December 31, 2002:

- 24 (1) To assessments made after December 31, 2002, and before
- 25 January 1, 2004, twenty percent (20%) of the increase.
- 26 (2) To assessments made after December 31, 2003, and before
- 27 January 1, 2005, forty percent (40%) of the increase.
- 28 (3) To assessments made after December 31, 2004, and before
- 29 January 1, 2006, sixty percent (60%) of the increase.
- 30 (4) To assessments made after December 31, 2005, and before
- 31 January 1, 2007, eighty percent (80%) of the increase.
- 32 (5) To assessments made after December 31, 2006, one
- 33 hundred percent (100%) of the increase.

34 (c) If a fund member ends employment other than by death or
 35 disability before completing twenty (20) years of active service, the
 36 PERF board shall return to the fund member in a lump sum the
 37 fund member's contributions plus interest as determined by the
 38 PERF board. If the fund member returns to service, the fund
 39 member is entitled to credit for the years of service for which the
 40 fund member's contributions were refunded if the fund member
 41 repays the amount refunded to him in either a lump sum or a series
 42 of payments determined by the PERF board.



SECTION 21. IC 36-8-8-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 9. (a) This section applies to all ~~police officers and~~ firefighters who converted their benefits under IC 19-1-17.8-7 or IC 19-1-36.5-7 (both of which were repealed September 1, 1981).

(b) A ~~police officer or~~ firefighter who converted his benefits from ~~a 1925, the 1937 or 1953~~ fund to the benefits and conditions of this chapter is not entitled to receive any benefits from the original fund. However, he is entitled to credit for all years of service for which he would have received credit before his conversion in that original fund.

(c) A ~~police officer or~~ firefighter who:

- (1) converted his benefits from ~~a 1925, the 1937 or 1953~~ fund;
- (2) retired or became disabled on or before June 30, 1998; and
- (3) is entitled to receive benefits provided under this chapter based on the eligibility requirements of this chapter;

shall be treated as a member of this fund for purposes of paying his benefits from the 1977 fund effective for benefits paid on or after October 1, 1998. Prior to October 1, 1998, he remains a member of the original fund entitled to receive only the benefits provided under this chapter based on the eligibility requirements of this chapter.

(d) A ~~police officer or~~ firefighter who:

- (1) converted his benefits from ~~a 1925, the 1937 or 1953~~ fund;
- (2) who did not retire or become disabled on or before June 30, 1998; and
- (3) who is entitled to receive benefits provided under this chapter based on the eligibility requirements of this chapter;

remains a member of that original fund but is entitled to receive only the benefits provided under this chapter and based on the eligibility requirements of this chapter.

(e) A ~~police officer or~~ firefighter who converted shall contribute six percent (6%) of the salary of a first class ~~patrolman or~~ firefighter to the ~~1925, 1937 or 1953~~ fund. This amount shall be deducted from his salary each pay period by the disbursing officer of the employer. Contributions under this subsection may not be refunded.

SECTION 22. IC 36-8-8-9.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 9.3 (a) **This section applies to all police officers who converted their benefits under IC 19-1-17.8-7 or IC 19-1-36.5-7 (both of which were repealed September 1, 1981).**

(b) **A police officer who converted benefits from a 1925 or 1953 fund to the benefits and conditions of this chapter is not entitled to receive any benefits from the original fund. However, the officer is**

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entitled to credit for all years of service for which the officer would have received credit before the officer's conversion in that original fund.

(c) A police officer who:

- (1) converted benefits from a 1925 or 1953 fund;
- (2) retired or became disabled on or before June 30, 1998; and
- (3) is entitled to receive benefits provided under this chapter based on the eligibility requirements of this chapter;

shall be treated as a member of this fund for purposes of paying the officer's benefits from the 1977 fund effective for benefits paid on or after October 1, 1998. Before October 1, 1998, the officer remains a member of the original fund entitled to receive only the benefits provided under this chapter based on the eligibility requirements of this chapter.

(d) A police officer who:

- (1) converted benefits from a 1925 or 1953 fund;
- (2) who did not retire or become disabled on or before June 30, 1998; and
- (3) who is entitled to receive benefits provided under this chapter based on the eligibility requirements of this chapter;

remains a member of that original fund but is entitled to receive only the benefits provided under this chapter and based on the eligibility requirements of this chapter.

(e) A police officer who converted shall contribute:

- (1) six percent (6%) of the salary of a first class patrolman or firefighter before January 1, 2003; and
- (2) an amount equal to six percent (6%) of the salary of the rank of the member after December 31, 2002, subject to the adjustment in section 8.3(b) of this chapter;

to the 1925 or 1953 fund. This amount shall be deducted from the officer's salary each pay period by the disbursing officer of the employer. Contributions under this subsection may not be refunded.

SECTION 23. IC 36-8-8-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 11. (a) **This section applies to a fund member who is a firefighter.**

(b) Benefits paid under this section are subject to section 2.5 of this chapter.

(c) Each fund member who qualifies for a retirement benefit payment under section 10(b) of this chapter is entitled to receive a monthly benefit equal to fifty percent (50%) of the monthly salary of a first class patrolman or firefighter in the year the member ended his



active service plus:

- (1) for a member who retires before January 1, 1986, two percent (2%) of that salary for each full year of active service; or
- (2) for a member who retires after December 31, 1985, one percent (1%) of that salary for each six (6) months of active service;

over twenty (20) years, to a maximum of twelve (12) years.

~~(c)~~ **(d)** Each fund member who qualifies for a retirement benefit payment under section 10(c) of this chapter is entitled to receive a monthly benefit equal to fifty percent (50%) of the monthly salary of a first class ~~patrolman~~ or firefighter in the year the member ended his active service plus one percent (1%) of that salary for each six (6) months of active service over twenty (20) years, to a maximum of twelve (12) years, all actuarially reduced for each month (if any) of benefit payments prior to fifty-two (52) years of age, by a factor established by the fund's actuary from time to time.

SECTION 24. IC 36-8-8-11.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 11.3. (a) This section applies to a fund member who is a police officer.**

(b) Benefits paid under this section are subject to section 2.5 of this chapter.

(c) Each fund member who qualifies for a retirement benefit payment under section 10(b) of this chapter and who retires before January 1, 2003, is entitled to receive a monthly benefit equal to fifty percent (50%) of the monthly salary of a first class patrolman in the year the member ended active service plus:

- (1) for a member who retires before January 1, 1986, two percent (2%) of that salary for each full year of active service; or**
- (2) for a member who retires after December 31, 1985, and before January 1, 2002, one percent (1%) of that salary for each six (6) months of active service;**

over twenty (20) years, to a maximum of twelve (12) years.

(d) Each fund member who qualifies for a retirement benefit under section 10(b) of this chapter and who retires after December 31, 2002, is entitled to receive a monthly benefit equal to fifty percent (50%) of the monthly salary of the rank held by the member at the time the member ended active service, subject to the adjustment in section 11.5 of this chapter.

(e) Each fund member who qualifies for a retirement benefit payment under section 10(c) of this chapter and who retires before



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January 1, 2003, is entitled to receive a monthly benefit equal to fifty percent (50%) of the monthly salary of a first class patrolman in the year the member ended active service plus one percent (1%) of that salary for each six (6) months of active service over twenty (20) years, to a maximum of twelve (12) years, all actuarially reduced for each month (if any) of benefit payments before fifty-two (52) years of age, by a factor established by the fund's actuary from time to time.

(f) Each fund member who qualifies for a retirement benefit payment under section 10(c) of this chapter and who retires after December 31, 2002, is entitled to receive a monthly benefit, subject to the adjustment in section 11.5 of this chapter, equal to fifty percent (50%) of the monthly salary of the rank held by the member at the time the member ended active service all actuarially reduced for each month (if any) of benefit payments before fifty-two (52) years of age, by a factor established by the fund's actuary from time to time.

SECTION 25. IC 36-8-8-11.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 11.5. Any increase in benefits in this chapter attributable to the difference between the salary of a first class patrolman and the salary of the rank of the member shall be phased in by adding the following amounts to benefits paid after December 31, 2002:

- (1) To benefits paid after December 31, 2002, and before January 1, 2004, twenty percent (20%) of the increase.
- (2) To benefits paid after December 31, 2003, and before January 1, 2005, forty percent (40%) of the increase.
- (3) To benefits paid after December 31, 2004, and before January 1, 2006, sixty percent (60%) of the increase.
- (4) To benefits paid after December 31, 2005, and before January 1, 2007, eighty percent (80%) of the increase.
- (5) To benefits paid after December 31, 2006, one hundred percent (100%) of the increase.

SECTION 26. IC 36-8-8-13.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 13.5. (a) This section applies only to a fund member who:

- (1) is hired for the first time after December 31, 1989;
- (2) chooses coverage by this section and section 12.5 of this chapter under section 12.4 of this chapter; or
- (3) is described in section 12.3(c)(2) of this chapter.

(b) This subsection applies to a fund member who is a



firefighter. A fund member who is determined to have a Class 1 impairment and for whom it is determined that there is no suitable and available work within the fund member's department, considering reasonable accommodation to the extent required by the Americans with Disabilities Act, is entitled to a monthly base benefit equal to forty-five percent (45%) of the monthly salary of a first class ~~patrolman~~ **or** firefighter in the year of the local board's determination of impairment.

(c) This subsection applies to a fund member who is a police officer. A fund member who is determined to have a Class 1 impairment and for whom it is determined that there is no suitable and available work within the fund member's department, considering reasonable accommodation to the extent required by the Americans with Disabilities Act, is entitled to a monthly base benefit:

(1) equal to forty-five percent (45%) of the monthly salary of a first class patrolman for a Class 1 impairment occurring before January 1, 2003; or

(2) equal to forty-five percent (45%) of the salary of the rank of the member at the time of the occurrence of the Class 1 impairment, subject to the adjustment in section 11.5 of this chapter, for a Class 1 impairment occurring after December 31, 2002;

in the year of the local board's determination of impairment.

(d) This subsection applies to a fund member who is a firefighter. A fund member who is determined to have a Class 2 impairment and for whom it is determined that there is no suitable and available work within the fund member's department, considering reasonable accommodation to the extent required by the Americans with Disabilities Act, is entitled to a monthly base benefit equal to twenty-two percent (22%) of the monthly salary of a first class ~~patrolman~~ **or** firefighter in the year of the local board's determination of impairment plus one-half percent (0.5%) of that salary for each year of service, up to a maximum of thirty (30) years of service.

(e) This subsection applies to a fund member who is a police officer. A fund member who is determined to have a Class 2 impairment and for whom it is determined that there is no suitable and available work within the fund member's department, considering reasonable accommodation to the extent required by the Americans with Disabilities Act, is entitled to a monthly base benefit:

(1) equal to twenty-two percent (22%) of the monthly salary



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of a first class patrolman for a Class 2 impairment occurring before January 1, 2003, in the year of the local board's determination of impairment plus one-half percent (0.5%) of that salary for each year of service, up to a maximum of thirty (30) years of service; or

(2) equal to twenty-two percent (22%) of the salary of the rank of the member at the time of the occurrence of the Class 2 impairment, subject to the adjustment in section 11.5 of this chapter, for a Class 2 impairment occurring after December 31, 2002.

~~(d)~~ (f) This subsection applies to a fund member who is a firefighter. For applicants hired before March 2, 1992, a fund member who is determined to have a Class 3 impairment and for whom it is determined that there is no suitable and available work within the fund member's department, considering reasonable accommodation to the extent required by the Americans with Disabilities Act, is entitled to a monthly base benefit equal to the product of the member's years of service (not to exceed thirty (30) years of service) multiplied by one percent (1%) of the monthly salary of a first class patrolman or firefighter in the year of the local board's determination of impairment.

(g) This subsection applies to a fund member who is a police officer. For applicants hired before March 2, 1992, a fund member who is determined to have a Class 3 impairment and for whom it is determined that there is no suitable and available work within the fund member's department, considering reasonable accommodation to the extent required by the Americans with Disabilities Act, is entitled to a monthly base benefit:

(1) equal to the product of the member's years of service (not to exceed thirty (30) years of service) multiplied by one percent (1%) of the monthly salary of a first class patrolman for a Class 3 impairment occurring before January 1, 2003; or

(2) equal to the product of the member's years of service (not to exceed thirty (30) years of service) multiplied by one percent (1%) of the monthly salary of the rank of the member at the time of the occurrence of the Class 3 impairment, subject to the adjustment in section 11.5 of this chapter, for a Class 3 impairment occurring after December 31, 2002;

in the year of the local board's determination of impairment.

~~(e)~~ (h) This subsection applies to a fund member who is a firefighter. For applicants hired after March 1, 1992, or described in section 12.3(c)(2) of this chapter, a fund member who is determined to

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1 have a Class 3 impairment and for whom it is determined that there is
 2 no suitable and available work within the fund member's department,
 3 considering reasonable accommodation to the extent required by the
 4 Americans with Disabilities Act, is entitled to the following benefits
 5 instead of benefits provided under subsection ~~(d)~~: **(f)**:

6 (1) If the fund member did not have a Class 3 excludable
 7 condition under section 13.6 of this chapter at the time the fund
 8 member entered or reentered the fund,
 9 the fund member is entitled to a monthly base benefit equal to the
 10 product of the member's years of service, not to exceed thirty (30)
 11 years of service, multiplied by one percent (1%) of the monthly
 12 salary of a first class ~~patrolman~~ or firefighter in the year of the
 13 local board's determination of impairment.

14 (2) Except as provided in subdivision (5), a fund member is
 15 entitled to receive the benefits set forth in subdivision (1) if:

16 (A) the fund member had a Class 3 excludable condition under
 17 section 13.6 of this chapter at the time the fund member
 18 entered or reentered the fund;

19 (B) the fund member has a Class 3 impairment that is not
 20 related in any manner to the Class 3 excludable condition
 21 described in clause (A); and

22 (C) the Class 3 impairment described in clause (B) occurs after
 23 the fund member has completed four (4) years of service with
 24 the employer after the date the fund member entered or
 25 reentered the fund.

26 (3) Except as provided in subdivision (5), a fund member is not
 27 entitled to a monthly base benefit for a Class 3 impairment if:

28 (A) the fund member had a Class 3 excludable condition under
 29 section 13.6 of this chapter at the time the fund member
 30 entered or reentered the fund; and

31 (B) the Class 3 impairment occurs before the fund member has
 32 completed four (4) years of service with the employer after the
 33 date the fund member entered or reentered the fund.

34 (4) A fund member is not entitled to a monthly base benefit for a
 35 Class 3 impairment if:

36 (A) the fund member had a Class 3 excludable condition under
 37 section 13.6 of this chapter at the time the fund member
 38 entered or reentered the fund; and

39 (B) the Class 3 impairment is related in any manner to the
 40 Class 3 excludable condition.

41 (5) If during the first four (4) years of service with the employer:

42 (A) a fund member with a Class 3 excludable condition is

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determined to have a Class 3 impairment; and

(B) the Class 3 impairment is attributable to an accidental injury that is not related in any manner to the fund member's Class 3 excludable condition;

the member is entitled to receive the benefits provided in subdivision (1) with respect to the accidental injury. For purposes of this subdivision, the local board shall make the initial determination of whether an impairment is attributable to an accidental injury. The local board shall forward the initial determination to the director of the PERF board for a final determination by the PERF board or the PERF board's designee.

(i) This subsection applies to a fund member who is a police officer. For members hired after March 1, 1992, or described in section 12.3(c)(2) of this chapter, a fund member who is determined to have a Class 3 impairment and for whom it is determined that there is no suitable and available work within the fund member's department, considering reasonable accommodation to the extent required by the Americans with Disabilities Act, is entitled to the following benefits instead of benefits provided under subsection (g):

(1) If the fund member did not have a Class 3 excludable condition under section 13.6 of this chapter at the time the fund member entered or reentered the fund, and the Class 3 impairment occurred:

(A) before January 1, 2003, the fund member is entitled to a monthly base benefit equal to the product of the member's years of service, not to exceed thirty (30) years of service, multiplied by one percent (1%) of the monthly salary of a first class patrolman in the year of the local board's determination of impairment; or

(B) after December 31, 2002, the fund member is entitled to a monthly base benefit equal to the product of the member's years of service, not to exceed thirty (30) years of service, multiplied by one percent (1%) of the monthly salary of the rank of the member at the time of the occurrence of the Class 3 impairment in the year of the local board's determination of impairment, subject to the adjustment in section 11.5 of this chapter.

(2) Except as provided in subdivision (5), a fund member is entitled to receive the benefits set forth in subdivision (1) if:

(A) the fund member had a Class 3 excludable condition under section 13.6 of this chapter at the time the fund

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- 1 member entered or reentered the fund;
 2 (B) the fund member has a Class 3 impairment that is not
 3 related in any manner to the Class 3 excludable condition
 4 described in clause (A); and
 5 (C) the Class 3 impairment described in clause (B) occurs
 6 after the fund member has completed four (4) years of
 7 service with the employer after the date the fund member
 8 entered or reentered the fund.
- 9 (3) Except as provided in subdivision (5), a fund member is
 10 not entitled to a monthly base benefit for a Class 3
 11 impairment if:
 12 (A) the fund member had a Class 3 excludable condition
 13 under section 13.6 of this chapter at the time the fund
 14 member entered or reentered the fund; and
 15 (B) the Class 3 impairment occurs before the fund member
 16 has completed four (4) years of service with the employer
 17 after the date the fund member entered or reentered the
 18 fund.
- 19 (4) A fund member is not entitled to a monthly base benefit
 20 for a Class 3 impairment if:
 21 (A) the fund member had a Class 3 excludable condition
 22 under section 13.6 of this chapter at the time the fund
 23 member entered or reentered the fund; and
 24 (B) the Class 3 impairment is related in any manner to the
 25 Class 3 excludable condition.
- 26 (5) If during the first four (4) years of service with the
 27 employer:
 28 (A) a fund member with a Class 3 excludable condition is
 29 determined to have a Class 3 impairment; and
 30 (B) the Class 3 impairment is attributable to an accidental
 31 injury that is not related in any manner to the fund
 32 member's Class 3 excludable condition;
 33 the member is entitled to receive the benefits provided in
 34 subdivision (1) with respect to the accidental injury. For
 35 purposes of this subdivision, the local board shall make the
 36 initial determination of whether an impairment is attributable
 37 to an accidental injury. The local board shall forward the
 38 initial determination to the director of the PERF board for a
 39 final determination by the PERF board or the PERF board's
 40 designee.
- 41 ~~(j)~~ (j) If a fund member is entitled to a monthly base benefit under:
 42 (1) subsection (b), ~~(c)~~, ~~(d)~~, or ~~(e)~~ (c)(1), (d), (e)(1), (f), (g)(1), (h),

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or (i)(1)(A), the fund member is also entitled to a monthly amount that is ~~no not~~ less than ten percent (10%) and ~~no greater~~ **not more** than forty-five percent (45%) of the monthly salary of a first class ~~patrolman or~~ firefighter in the year of the local board's determination of impairment; or

(2) subsection (c)(2), (e)(2), (g)(2), or (i)(1)(B), the fund member is also entitled to a monthly amount, subject to the adjustment in section 11.5, of this chapter, that is not less than ten percent (10%) and not more than forty-five percent (45%) of the monthly salary of the rank of the police officer member in the year of the local board's determination of impairment.

The additional monthly amount **under either subdivision (1) or (2)** shall be determined by the PERF medical authority based on the degree of impairment.

~~(g)~~ **(k) This subsection applies to a fund member who is a firefighter.** Benefits for a Class 1 impairment are payable until the fund member becomes fifty-two (52) years of age. Benefits for a Class 2 and a Class 3 impairment are payable:

(1) for a period equal to the years of service of the member, if the member's total disability benefit is less than thirty percent (30%) of the monthly salary of a first class ~~patrolman or~~ firefighter in the year of the local board's determination of impairment and the member has fewer than four (4) years of service; or

(2) until the member becomes fifty-two (52) years of age if the member's benefit is:

(A) equal to or greater than thirty percent (30%) of the monthly salary of a first class ~~patrolman or~~ firefighter in the year of the local board's determination of impairment; or

(B) less than thirty percent (30%) of the monthly salary of a first class ~~patrolman or~~ firefighter in the year of the local board's determination of impairment if the member has at least four (4) years of service.

(l) This subsection applies to a fund member who is a police officer. Benefits for a Class 1 impairment are payable until the fund member becomes fifty-two (52) years of age. Benefits for a Class 2 and a Class 3 impairment are payable:

(1) for an impairment occurring:

(A) before January 1, 2003, for a period equal to the years of service of the member, if the member's total disability benefit is less than thirty percent (30%) of the monthly salary of a first class patrolman in the year of the local board's determination of impairment and the member has

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fewer than four (4) years of service; or

(B) after December 31, 2002, for a period equal to the years of service of the member, if the member's total disability benefit, subject to the adjustment in section 11.5 of this chapter, is less than thirty percent (30%) of the monthly salary of the rank of the member in the year of the local board's determination of impairment and the member has less than four (4) years of service; or

(2) for an impairment occurring:

(A) before January 1, 2003, until the member becomes fifty-two (52) years of age if the member's benefit is:

(i) equal to or greater than thirty percent (30%) of the monthly salary of a first class patrolman in the year of the local board's determination of impairment; or

(ii) less than thirty percent (30%) of the monthly salary of a first class patrolman in the year of the local board's determination of impairment if the member has at least four (4) years of service; or

(B) after December 31, 2002, until the member becomes fifty-two (52) years of age if the member's benefit, subject to the adjustment in section 11.5 of this chapter, is:

(i) equal to or more than thirty percent (30%) of the monthly salary of the rank of the member in the year of the local board's determination of impairment; or

(ii) less than thirty percent (30%) of the monthly salary of the rank of the member in the year of the local board's determination of impairment if the member has at least four (4) years of service.

~~(h)~~ (m) Upon becoming fifty-two (52) years of age, a fund member with a Class 1 or Class 2 impairment is entitled to receive the retirement benefit payable to a fund member with:

(1) twenty (20) years of service; or

(2) the total years of service and salary, as of the year the member becomes fifty-two (52) years of age, that the fund member would have earned if the fund member had remained in active service until becoming fifty-two (52) years of age;

whichever is greater.

~~(i)~~ (n) **This subsection applies to a fund member who is a firefighter.** Upon becoming fifty-two (52) years of age a fund member receiving or has received a Class 3 impairment benefit that is:

(1) equal to or greater than thirty percent (30%) of the monthly salary of a first class ~~patrolman~~ or firefighter in the year of the

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1 local board's determination of impairment; or
 2 (2) less than thirty percent (30%) of the monthly salary of a first
 3 class ~~patrolman or~~ firefighter in the year of the local board's
 4 determination of impairment if the member has at least four (4)
 5 years of service;

6 is entitled to receive the retirement benefit payable to a fund member
 7 with twenty (20) years of service.

8 **(o) This subsection applies to a fund member who is a police**
 9 **officer. Upon becoming fifty-two (52) years of age a fund member:**

10 **(1) with a Class 3 impairment that occurred before January**
 11 **1, 2003, who is receiving or has received a Class 3 impairment**
 12 **benefit that is:**

13 **(A) equal to or greater than thirty percent (30%) of the**
 14 **monthly salary of a first class patrolman in the year of the**
 15 **local board's determination of impairment; or**

16 **(B) less than thirty percent (30%) of the monthly salary of**
 17 **a first class patrolman in the year of the local board's**
 18 **determination of impairment if the member has at least**
 19 **four (4) years of service; or**

20 **(2) with a Class 3 impairment that occurred after December**
 21 **31, 2003, who is receiving or has received a Class 3**
 22 **impairment benefit, subject to the adjustment in section 11.5**
 23 **of this chapter, that is:**

24 **(A) equal to or more than thirty percent (30%) of the**
 25 **monthly salary of the rank of the member in the year of**
 26 **the local board's determination of impairment; or**

27 **(B) less than thirty percent (30%) of the monthly salary of**
 28 **the rank of the member in the year of the local board's**
 29 **determination of impairment if the member has at least**
 30 **four (4) years of service;**

31 **is entitled to receive the retirement benefit payable to a fund**
 32 **member with twenty (20) years of service.**

33 **(j) (p)** Notwithstanding section 12.3 of this chapter and any other
 34 provision of this section, a member who:

35 (1) has had a covered impairment;

36 (2) recovers and returns to active service with the department; and

37 (3) within two (2) years after returning to active service has an
 38 impairment that, except for section 12.3(b)(3) of this chapter,
 39 would be a covered impairment;

40 is entitled to the benefit under this subsection if the impairment
 41 described in subdivision (3) results from the same condition or
 42 conditions (without an intervening circumstance) that caused the

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covered impairment described in subdivision (1). The member is entitled to receive the monthly disability benefit amount paid to the member at the time of the member's return to active service plus any adjustments under section 15 of this chapter that would have been applicable during the member's period of reemployment.

SECTION 27. IC 36-8-8-13.8, AS ADDED BY P.L.118-2000, SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 13.8. (a) This section applies to an active or retired member who dies other than in the line of duty (as defined in section 14.1 of this chapter) after August 31, 1982.

(b) **This subsection applies to a fund member who is a firefighter.** If a fund member dies while receiving retirement or disability benefits, the following apply:

(1) Except as otherwise provided in this subsection, each of the member's surviving children is entitled to a monthly benefit equal to twenty percent (20%) of the fund member's monthly benefit:

(A) until the child becomes eighteen (18) years of age; or

(B) until the child becomes twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university;

whichever period is longer. However, if the board finds upon the submission of satisfactory proof that a child who is at least eighteen (18) years of age is mentally or physically incapacitated, is not a ward of the state, and is not receiving a benefit under clause (B), the child is entitled to receive an amount each month that is equal to the greater of thirty percent (30%) of the monthly pay of a ~~first class patrolman~~ or first class firefighter or fifty-five percent (55%) of the monthly benefit the deceased member was receiving or was entitled to receive on the date of the member's death as long as the mental or physical incapacity of the child continues. Benefits paid for a child shall be paid to the surviving parent as long as the child resides with and is supported by the surviving parent. If the surviving parent dies, the benefits shall be paid to the legal guardian of the child.

(2) The member's surviving spouse is entitled to a monthly benefit equal to sixty percent (60%) of the fund member's monthly benefit during the spouse's lifetime. If the spouse remarried before September 1, 1983, and benefits ceased on the date of remarriage, the benefits for the surviving spouse shall be reinstated on July 1, 1997, and continue during the life of the surviving spouse.

If a fund member dies while receiving retirement or disability benefits,

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there is no surviving eligible child or spouse, and there is proof satisfactory to the local board, subject to review in the manner specified in section 13.1(b) of this chapter, that the parent was wholly dependent on the fund member, the member's surviving parent is entitled, or both surviving parents if qualified are entitled jointly, to receive fifty percent (50%) of the fund member's monthly benefit during the parent's or parents' lifetime.

(c) This subsection applies to a fund member who is a police officer. If a fund member dies while receiving retirement or disability benefits, the following apply:

(1) Except as otherwise provided in this subsection, each of the member's surviving children is entitled to a monthly benefit equal to twenty percent (20%) of the fund member's monthly benefit until the child becomes eighteen (18) years of age, or until the child becomes twenty-three (23) years of age, if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university, whichever period is longer. However, if the board finds upon the submission of satisfactory proof that a child who is at least eighteen (18) years of age is mentally or physically incapacitated, is not a ward of the state, and is not receiving a benefit as a student attending a secondary school or accredited college or university, the child is entitled to receive an amount each month that is equal to:

(A) for a member who dies before January 1, 2003, an amount each month that is equal to the greater of twenty percent (20%) of the monthly pay of a first class patrolman or fifty-five percent (55%) of the monthly benefit the deceased member was receiving or was entitled to receive on the date of the member's death; or

(B) for a member who dies after December 31, 2002, an amount each month, subject to the adjustment in section 11.5 of this chapter, that is equal to the greater of twenty percent (20%) of the monthly salary of the rank of the member or fifty-five percent (55%) of the monthly benefit the deceased member was receiving or was entitled to receive on the date of the member's death;

as long as the mental or physical incapacity of the child continues. Benefits paid for a child shall be paid to the surviving parent as long as the child resides with and is supported by the surviving parent. If the surviving parent dies, the benefits shall be paid to the legal guardian of the



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child.

(2) The member's surviving spouse is entitled to a monthly benefit equal to sixty percent (60%) of the fund member's monthly benefit during the spouse's lifetime. If the spouse remarried before September 1, 1983, and benefits ceased on the date of remarriage, the benefits for the surviving spouse shall be reinstated on July 1, 1997, and continue during the life of the surviving spouse.

If a fund member dies while receiving retirement or disability benefits, there is no surviving eligible child or spouse, and there is proof satisfactory to the local board, subject to review in the manner specified in section 13.1(b) of this chapter, that the parent was wholly dependent on the fund member, the member's surviving parent is entitled, or both surviving parents if qualified are entitled jointly, to receive fifty percent (50%) of the fund member's monthly benefit during the parent's or parents' lifetime.

(c) (d) Except as otherwise provided in this subsection, if a fund member dies while on active duty or while retired and not receiving benefits, the member's children and the member's spouse, or the member's parent or parents are entitled to receive a monthly benefit determined under subsection (b). If the fund member did not have at least twenty (20) years of service or was not at least fifty-two (52) years of age, the benefit is computed as if the member:

(1) did have twenty (20) years of service; and

(2) was fifty-two (52) years of age.

SECTION 28. IC 36-8-8-14.1, AS AMENDED BY P.L.118-2000, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 14.1. (a) Benefits paid under this section are subject to section 2.5 of this chapter.

(b) This section applies to an active member who dies in the line of duty after August 31, 1982.

(c) If a fund member dies in the line of duty after August 31, 1982, the member's surviving spouse is entitled to a monthly benefit during the spouse's lifetime, equal to the benefit to which the member would have been entitled on the date of the member's death, but not less than the benefit payable to a member with twenty (20) years service at fifty-two (52) years of age. If the spouse remarried before September 1, 1983, and benefits ceased on the date of remarriage, the benefits for the surviving spouse shall be reinstated on July 1, 1997, and continue during the life of the surviving spouse.

(d) **This subsection applies to a fund member who is a firefighter.** If a fund member dies in the line of duty, each of the



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member's surviving children is entitled to a monthly benefit equal to twenty percent (20%) of the fund member's monthly benefit:

- (1) until the child reaches eighteen (18) years of age; or
- (2) until the child reaches twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university;

whichever period is longer. However, if the board finds upon the submission of satisfactory proof that a child who is at least eighteen (18) years of age is mentally or physically incapacitated, is not a ward of the state, and is not receiving a benefit under subdivision (2), the child is entitled to receive an amount each month that is equal to the greater of thirty percent (30%) of the monthly pay of a ~~first class patrolman~~ or first class firefighter or fifty-five percent (55%) of the monthly benefit the deceased member was receiving or was entitled to receive on the date of the member's death as long as the mental or physical incapacity of the child continues. Benefits paid for a child shall be paid to the surviving parent as long as the child resides with and is supported by the surviving parent. If the surviving parent dies, the benefits shall be paid to the legal guardian of the child.

(e) This subsection applies to a fund member who is a police officer. If a fund member dies in the line of duty, each of the member's surviving children is entitled to a monthly benefit equal to twenty percent (20%) of the fund member's monthly benefit until the child reaches eighteen (18) years of age, or until the child reaches twenty-three (23) years of age, if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university, whichever period is longer. However, if the board finds upon the submission of satisfactory proof that a child who is at least eighteen (18) years of age is mentally or physically incapacitated, is not a ward of the state, and is not receiving a benefit as a student attending a secondary school or an accredited college or university, the child is entitled to receive:

- (1) for a member who dies in the line of duty before January 1, 2003, an amount each month that is equal to the greater of thirty percent (30%) of the monthly pay of a first class patrolman or fifty-five percent (55%) of the monthly benefit the deceased member was receiving or was entitled to receive on the date of the member's death; or**
- (2) for a member who dies in the line of duty after December 31, 2002, an amount each month, subject to the adjustment in section 11.5 of this chapter, that is equal to the greater of**



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thirty percent (30%) of the monthly salary of the rank of the member or fifty-five percent (55%) of the monthly benefit the deceased member was receiving or was entitled to receive on the date of the member's death;

as long as the mental or physical incapacity of the child continues. Benefits paid for a child shall be paid to the surviving parent as long as the child resides with and is supported by the surviving parent. If the surviving parent dies, the benefits shall be paid to the legal guardian of the child.

(f) If there is no surviving eligible child or spouse, and there is proof satisfactory to the local board, subject to review in the manner specified in section 13.1(b) of this chapter, that the parent was wholly dependent on the fund member, the member's surviving parent is entitled, or both surviving parents if qualified are entitled jointly, to receive fifty percent (50%) of the fund member's monthly benefit during the parent's or parents' lifetime.

~~(f)~~ (g) If the fund member did not have at least twenty (20) years of service or was not at least fifty-two (52) years old, the benefit is computed as if the member:

- (1) did have twenty (20) years of service; and
- (2) was fifty-two (52) years of age.

~~(g)~~ (h) For purposes of this section, "dies in the line of duty" means death that occurs as a direct result of personal injury or illness resulting from:

- (1) any action that the member, in the member's capacity as a police officer:

- (A) is obligated or authorized by rule, regulation, condition of employment or service, or law to perform; or
- (B) performs in the course of controlling or reducing crime or enforcing the criminal law; or

- (2) any action that the member, in the member's capacity as a firefighter:

- (A) is obligated or authorized by rule, regulation, condition of employment or service, or law to perform; or
- (B) performs while on the scene of an emergency run (including false alarms) or on the way to or from the scene.

SECTION 29. IC 36-8-8-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 18. (a) Except as provided in subsection (b), if a unit becomes a participant in the 1977 fund, credit for prior service by police officers (including prior service as a full-time, fully paid town marshal or full-time, fully paid deputy town marshal by a police officer employed by a metropolitan board of



police commissioners) or by firefighters before the date of participation may be given by the PERF board only if:

(1) the unit contributes to the 1977 fund the amount necessary to amortize prior service liability over a period of not more than forty (40) years, the amount and period to be determined by the PERF board; and

(2) the police officers or firefighters pay, either in a lump sum or in a series of payments determined by the PERF board, the amount that they would have contributed if they had been members of the 1977 fund during their prior service.

If the requirements of subdivisions (1) and (2) are not met, a fund member is entitled to credit only for years of service after the date of participation.

(b) **¶ This subsection applies to members who are police officers for a unit that becomes a participant in the 1977 fund under section 3(c) of this chapter before January 1, 2003, or if and to a firefighter who becomes a member of the 1977 fund under section 7(g) of this chapter. Credit for prior service before the date of participation or membership shall be given by the PERF board as follows:**

(1) For a member who will accrue twenty (20) years of service credit in the 1977 fund by the time the member reaches the earliest retirement age under the fund at the time of the member's date of participation in the 1977 fund, the member will be given credit in the 1977 fund for one-third (1/3) of the member's years of participation in PERF as a police officer, a firefighter, or an emergency medical technician.

(2) For a member who will not accrue twenty (20) years of service credit in the 1977 fund by the time the member reaches the earliest retirement age under the fund at the time of the member's date of participation in the 1977 fund, such prior service shall be given only if:

(A) The unit contributes to the 1977 fund the amount necessary to fund prior service liability amortized over a period of not more than ten (10) years. The amount of contributions must be based on the actual salary earned by a first class firefighter at the time the unit becomes a participant in the 1977 fund, or the firefighter becomes a member of the 1977 fund, or if no such salary designation exists, the actual salary earned by the firefighter. However, credit for prior service is limited to the amount necessary to allow the firefighter to accrue twenty (20) years of service credit in the 1977 fund by the time the firefighter reaches the earliest

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retirement age under the 1977 fund at the time of the member's date of participation in the 1977 fund. The limit on credit for prior service does not apply if the firefighter was a member of the 1937 fund or 1977 fund whose participation was terminated due to the creation of a new fire protection district under IC 36-8-11-5 and who subsequently became a member of the 1977 fund. A firefighter who was a member of or reentered the 1937 fund or 1977 fund whose participation was terminated due to the creation of a new fire protection district under IC 36-8-11-5 is entitled to full credit for prior service in an amount equal to the firefighter's years of service before becoming a member of or reentering the 1977 fund. Service may only be credited for time as a full-time, fully paid firefighter or as an emergency medical technician under section 7(g) of this chapter.

(B) The amount the firefighter would have contributed if the firefighter had been a member of the 1977 fund during the firefighter's prior service must be fully paid and must be based on the firefighter's actual salary earned during that period before service can be credited under this section.

(C) Any amortization schedule for contributions paid under clause (A) and contributions to be paid under clause (B) must include interest at a rate determined by the PERF board.

(c) This subsection applies to members who are police officers for a unit that becomes a participant in the 1977 fund under section 3(c) of this chapter after December 31, 2002. Credit for prior service before the date of participation or membership shall be given by the PERF board as follows:

(1) For a member who will accrue twenty (20) years of service credit in the 1977 fund by the time the member reaches the earliest retirement age under the fund at the time of the member's date of participation in the 1977 fund, the member will be given credit in the 1977 fund for one-third (1/3) of the member's years of participation in PERF as a police officer, a firefighter, or an emergency medical technician.

(2) For a member who will not accrue twenty (20) years of service credit in the 1977 fund by the time the member reaches the earliest retirement age under the fund at the time of the member's date of participation in the 1977 fund, prior service shall be given, as follows, only if:

(A) The unit contributes to the 1977 fund the amount necessary to fund prior service liability amortized over a

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period of not more than ten (10) years. The amount of contributions must be based on the salary of the rank of the member at the time the unit becomes a participant in the 1977 fund.

(B) Any amortization schedule for contributions paid under clause (A) must include interest at a rate determined by the PERF board.

(d) This subsection applies to a unit that:

(1) becomes a participant in the 1977 fund under section 3(c) of this chapter; and

(2) is a fire protection district created under IC 36-8-11 that includes a township or a municipality that had a 1937 fund.

A firefighter who continues uninterrupted service with a unit covered by this subsection and who participated in the township or municipality 1937 fund is entitled to receive service credit for such service in the 1977 fund. However, credit for such service is limited to the amount accrued by the firefighter in the 1937 fund or the amount necessary to allow the firefighter to accrue twenty (20) years of service credit in the 1977 fund by the time the firefighter becomes fifty-five (55) years of age, whichever is less.

~~(d)~~ **(e)** The unit shall contribute into the 1977 fund the amount necessary to fund the amount of past service determined in accordance with subsection ~~(e)~~; **(d)**, amortized over a period not to exceed ten (10) years with interest at a rate determined by the PERF board.

~~(e)~~ **(f)** If the township or municipality has accumulated money in its 1937 fund, any amount accumulated that exceeds the present value of all projected future benefits from the 1937 plan shall be paid by the township or municipality to the unit for the sole purpose of making the contributions determined in subsection ~~(d)~~; **(e)**.

SECTION 30. [EFFECTIVE JULY 1, 2001] IC 33-19-7-7, as amended by this act, applies to county budget years beginning after December 31, 2001.

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